

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, JULY 27, 2017

7:00 p.m.

in

Senior Center

806 Massachusetts Avenue

First Floor

Cambridge, Massachusetts 02139

Constantine Alexander, Chair

Brendan Sullivan, Vice Chair

Janet Green, Member

Andrea A. Hickey, Member

Patrick Tedesco, Member

Sean O'Grady, Zoning Secretary

Sisia Daglian, Assistant Commissioner

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I N D E X

<u>CASE</u>	<u>PAGE</u>
BZA-013489-2017 -- 137 Mt. Auburn Street Original Hearing Date: 07/13/17	5
BZA-013611-2017 -- 35-37 Berkshire Street Original Hearing Date: 07/13/17	54
BZA-009632 -- 55 Amory Street	91
BZA-013661-2017 -- 16 Garfield Street	93
BZA-013671-2017 -- 45 Crescent Street	107
BZA-013173-2017 -- 273 First Street	119
BZA-013690-2017 -- 2551 Mass. Avenue	122
BZA-013707-2017 -- 72 Spring Street	181
BZA-013691-2017 -- 346 Washington Street	199
BZA-013701-2017 -- 1430 Mass Avenue	217
BZA-013725-2017 -- 19 Harrison Avenue	267

KeywordIndex

P R O C E E D I N G S

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(7:00 p.m.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Board of Zoning Appeals to order. First of all let me make a statement.

After notifying the Chair, any person may make a video or audio recording of our open sessions, which this is, or may transmit the meeting through any medium subject to reasonable requirements that the Chair may impose as to the number, placement, and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the Chair will inform other attendees at that meeting that a recording is being made.

And I wish to advise that a recording -- two recordings are being made. Our stenographer records, as well as types, records to assist her in doing the transcript later on. And a citizen of the city is also recording. His tape recorder is sitting right there. So you've been

forewarned.

With that we'll turn to our continued cases agenda. These are cases that started at an earlier date and for one reason or another have been continued to tonight. We have two continued cases.

* * * * *

(7:00 p.m.)

(Sitting Members Case No. BZA-013489-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: First case I'm going to call is case No. 013489, 137 Mount Auburn Street.

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

Good evening.

ATTORNEY JAMES RAFFERTY: Good evening

Mr. Chairman, Members of the Board. For the record, my name is James Rafferty. I'm an attorney with offices at 675 Massachusetts Avenue.

CONSTANTINE ALEXANDER: You may have to turn it on. I'm not sure it's on. I think people can hear. It's not a big audience tonight.

ATTORNEY JAMES RAFFERTY: Good evening again, Members of the Board. James Rafferty on behalf of the applicant. Seated to my right the -- to my far right is one of the ownership principals of Baile Beag 11, B-A-I-L-E B-E-A-G 11, LLC. I suspect perhaps one and no more of you would recognize that to be a Gaelic term I'm told by Mr. Digiovanni. To my far right is John Digiovanni. He is one of the members of the LLC that owns this property. And seated to my immediate right is the project architect from the Galante Architectural Studios. James?

JAMIE EMERSON: Jamie.

ATTORNEY JAMES RAFFERTY: Jamie. And the spelling of your last name, Jamie?

JAMIE EMERSON: Emerson, E-M-E-R-S-O-N.

ATTORNEY JAMES RAFFERTY: So Mr. Emerson has prepared a number of packages that are very thorough, and I'm happy to distribute to the Board. It does a very effective job at illustrating what the issue is here.

This is a single-family home located in the Residence B District right on Mount Auburn Street about a block down from the post office as you're heading west on the street. It's located in the half -- the Half Crown Marsh District. And it's been owned by Mr. Digiovanni for several years. It currently contains three dwelling units. It's a structure that has not aged well. Has had some alterations to it that haven't been all that compatible with the architecture and have not stood the test of time. As a result of all that, Mr. Digiovanni was in reviewing

opportunities to renovate the property based on the advice he received from Mr. Emerson and some structural engineers, elected to seek approval to remove the house and construct a new house. So that approval was attained by The Half Crown Marsh District. A Certificate of Appropriateness is issued and in the file if board members have had an opportunity to see it. The new structure is very similar in scale and size to the former structure, but it has a -- it has a number of areas in which it comes into greater conformity with the structure. And if you look at the before and after footprint, you'll notice the most prominent way in which the structure is now more compliant is in terms of the setbacks. The front setback, the rear setback, and the right setback are now compliant setbacks, which was not the case before.

There is a proposed increase of about 271 square feet of additional GFA present in the new structure. The prior structure -- it's a very small lot. So the prior structure had a -- it had a non-conforming FAR. So the FAR

here in the district as you know is 0.5. The FAR here was 0.73, and under this proposal is 0.81.

But the reason I appreciated Mr. Emerson's efforts at giving each of you an opportunity to see the design, because the 200 -- the vast majority of the additional square footage here can be identified in three elements of the house that were really the result of much discussion and collaboration with the conservation district. To begin with, you'll notice that there's a front porch, a feature that was seen as a very pleasing design element. It has a cover on it. That represents about 60 square feet. So as we know under the definitions of GFA, if the roof came off that, you would be down 60 square feet. The other area of the house that gives it a significant amount of architectural character and for which Mr. Emerson is prepared to share with you, its significance is the right corner of the house as you face the house. It has a rather prominent projection there which adds -- it takes away from

the flatness of the house he tells me, it gives a certain architectural style to the house, and it has an impact in GFA of approximately 170 square feet. And then the last, the last piece you'll see a projection on the first floor in the living room which gives a little bit of width to the living room, and that's about another 40 or 50 square feet. So about 90 percent of what's being sought here is architectural features. And if the standard were merely arithmetic, one might suggest that if those elements were removed from the house, the house could at least be consistent with the prior GFA.

Frankly, if that were the case, it might qualify for a Section 6 permit because it's on a foundation or a footprint that's actually smaller than the one, the existing house. But the house really is well thought out and well designed and it's intended to create two, 1600 square foot dwelling units, two bedrooms each. And it's really an attempt to add a little character to the street, recognize

that the lot itself is exceptionally narrow, but somewhat deeper than the average lot. So the narrowness of the house is what really led to the creation of the third floor. If the third floor didn't exist at all, it would be well below the allowed GFA. There was a lot of discussion about the third floor. It's a compliant third floor, but there's a height analysis between this structure and surrounding structures in that Res B District. And the request here, the hardship really is based on the efforts needed to make the house a little bit more functional to accommodate a program that has elements such as circulation, egress, and really reasonable size living. There is -- they're duplex apartments. There's an apartment on the first floor at lower level would consist of one apartment, and the second floor and third floor would be the second apartment.

The parking situation remains unchanged.

Currently there's a driveway that's been used as a tandem driveway for many years accommodating three dwelling units.

In this case that driveway would accommodate two dwelling units. We did advertise for the Special Permit, because I think there's some theory that might suggest that once the house was removed, the grandfathered parking on the residential side may no longer be present. So the relief also includes a request because we don't have, in this case, two-dimensionally conforming spaces because they're parked -- one's behind the other, so we don't satisfy the requirement that you be able to move one vehicle independent of the other. But it's longstanding practice there.

Mr. Digiovanni reports that his current of the three units he has there now, only one tenant has a motor vehicle of the three units. And as I said, the math would show a 271 square feet additional, but the design, and as I said Mr. Emerson would be pleased to address it, the design does attempt to use that additional square footage in a way that promotes an interesting house.

There was a lot of discussion, which the Board I'm

sure hears in cases here at the Conservation District Commission, about whether the new structure should not be a faux or a replica of one that was once there. Notwithstanding the fact that it's in a conservation district. So if the house came down, it should have some discernible elements that recognize the fact that it's going to be a 2018 structure and not pretend to be a structure that was there a long time ago. So it's not a reproduction, but it uses classic elements, especially something like the front porch and the clapboard siding on the projecting bay. Mr. Emerson's a strong believer that those design features really add a little profile to the house and contribute to the streetscape. That was the overwhelming sentiment at the Neighborhood Conservation District Commission. We do have a letter from an abutter, but I think it was frankly sent in before the case had a BZA number.

CONSTANTINE ALEXANDER: From Robert Strauss?

ATTORNEY JAMES RAFFERTY: Yes. It found its way

in.

CONSTANTINE ALEXANDER: We have it.

ATTORNEY JAMES RAFFERTY: Okay.

We had conversations with other abutters and are not aware of any abutters that have an objection to the additional relief being sought.

CONSTANTINE ALEXANDER: Talk to us a little bit about the -- I don't know how you -- the, I'll call it the deck off the -- on the second floor off the bedroom. I understand from a design point of view what's going on, but our Board is very loathed to approve these kind of arrangements, because of privacy concerns and noise concerns. It doesn't mean we don't approve them, but I think for every one we approve, we turn down or require the petitioner to modify the design. What's the need for this? Give me the dimensions again of how big that deck's going to be? And it's going to be off what, a bedroom?

ATTORNEY JAMES RAFFERTY: Yes, it sits off the

front of the house. It's off the bedroom. I think you estimated it --

CONSTANTINE ALEXANDER: Right on Mount Auburn Street in other words?

ATTORNEY JAMES RAFFERTY: Correct.

JAMIE EMERSON: Yeah, 48 per story. It's 100 square feet on that.

CONSTANTINE ALEXANDER: It's only one deck?

ATTORNEY JAMES RAFFERTY: Right, the deck itself sits on the --

CONSTANTINE ALEXANDER: Right, I understand. I'm just concerned it's the issue of the deck as opposed to the dimension, the amount of feet it adds. The square footage it adds.

ATTORNEY JAMES RAFFERTY: Right. I understand the privacy concerns associated with it. It's worth noting, however, that the Ordinance recognizes that these decks below the third floor are not counted within GFA. I think

they're a more common residential amenity than not. Second floor porches were popular in many of these houses. It's intended to give a little interest. The ability to sit out and observe the urban setting occurring on Mount Auburn Street. It does provide views down the street into the square. There was some discussion. It's an appealing feature. Clearly the presence of the projection allows for that to be there. So if one were simply to create the right angle at the corner of the house in the same manner that the other corner is, the GFA goes down and that element goes away. But there are several structures nearby that have -- the most immediate abutter has a deck of far greater dimension than this.

CONSTANTINE ALEXANDER: It certainly does.

ATTORNEY JAMES RAFFERTY: This is of a size that would not generate a high level of activity. I know it's been said that roof decks, back porches, can lead to large gatherings that can be disruptive. And I think it's

admittedly a design feature intended to allow the resident to experience a little bit of the streetscape along Mount Auburn Street. The University Green Apartments across the street have front balconies as well, but that's the thinking behind it.

CONSTANTINE ALEXANDER: Okay.

And the room that leads to that is what, a bedroom?

ATTORNEY JAMES RAFFERTY: It's a bedroom, yeah.

CONSTANTINE ALEXANDER: Okay.

ANDREA HICKEY: Could I see that photo?

CONSTANTINE ALEXANDER: Questions from Members of the Board?

(No Response.)

ATTORNEY JAMES RAFFERTY: I would, Mr. Emerson would want to talk to you a little bit about a few features, and I don't know, but the connection between the window boxes, the deck, the front porch, the -- it's designed to

have a certain cottage-style that he feels is adding to the overall aesthetic and streetscape. And if he might be allowed a moment or so to do so?

CONSTANTINE ALEXANDER: I'm open.

JAMIE EMERSON: So we're designing in the context of Mount Auburn Street and the Half Crown Marsh District. So there are certain design elements we felt were very important. Certainly the texture of the building, you notice the little roofs over the windows, the corner piece. We've talked about engaging the street. We felt was very important. Not to have a standoffish building, thus the aforementioned deck there. We were also -- at the same time we were picking up on the blue building immediately to the right as you face the building, thus our square element is adjacent to their rectangular feature, and making the transition to the next buildings to the left of the building. So there was a lot of thought and a lot of concern about how, how the street would move from A to B to

C.

CONSTANTINE ALEXANDER: Right.

JAMIE EMERSON: At the same time we were trying to keep it, you know, just very New England. Again, the texture that a lot of New England has been built over centuries. As Jim pointed out, we're not trying to recreate history, but we can reference that in our design.

CONSTANTINE ALEXANDER: The reason, I mean as I say I trust you understand, we're not a design review board.

JAMIE EMERSON: I understand.

CONSTANTINE ALEXANDER: And we have to deal with much more mundane matters like density and setbacks and stuff like that. So I appreciate your description of it. And it's not that we don't pay attention to the design, but that's now how we're going to decide the case one way or another. Just so you understand.

I'll reiterate, anybody have any questions or comments at this point from Members of the Board before I

open it up to public testimony?

(No Response.)

CONSTANTINE ALEXANDER: I guess not.

I will open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

Mr. Williamson.

JAMES WILLIAMSON: So James Williamson, 1000 Jackson Place. I'm -- I sort of, you know, it's a funky old cottage in that location. I'm sorry to see it go, but I guess that's what's gonna happen.

CONSTANTINE ALEXANDER: That's progress.

JAMES WILLIAMSON: I have two things, and I know that it was reviewed by The Half Crown is it Conservation Commission? And I wasn't at that meeting, although I had been to some of those meetings. And I had spent sometime in this neighborhood. I have friends who live in the neighborhood. And there are two things that I want to mention and/or ask about:

One is there was some discussion on the part of some neighbors, and maybe you've already covered this or it's gonna be covered, about a tree that some people believe is a historic tree that is actually on more than one property. And the concern was what the precautions would be in the course of the construction so as to minimize any risk to the roots or the root structure of the tree, to hopefully preserve the tree. I don't know all the details. That may well have been worked out between the two abutting property owners, but I was curious about it. It's interesting, because it's apparently if it is indeed such an historic and old and venerable tree.

The other thing is I was at a hearing where when Ted Galante got approval to expand, build an addition on a property across the street, what I want to mention is that I was -- after it was completed, I was struck by one particular thing. It doesn't look so imposing from the Mount Auburn Street side, but as I came up from the back

street up, I don't know if that's Brewer Street, it was like wow, that's a big addition. And so I would just, you know, hope that you're thinking about it from different perspectives and, you know, how it's gonna actually look from perspectives that maybe aren't the most obvious.

So, thank you.

CONSTANTINE ALEXANDER: We have -- thank you for taking the time to come down.

On the first thing you asked, the tree, it's news to me or to maybe not to other Members of the Board. There's nothing in our files about that. Maybe Mr. Rafferty can --

ATTORNEY JAMES RAFFERTY: Happy to.

CONSTANTINE ALEXANDER: -- address that.

Second, we did approve that addition if my memory is correct.

JAMES WILLIAMSON: Right, yes.

CONSTANTINE ALEXANDER: And so, we knew what we

were doing -- hopefully we knew what we were doing when we approved it. I think the plans that we have this time come from all different angles. So I think we should have an appreciation of the impact on all four sides, not just the street side.

JAMES WILLIAMSON: Right. This maybe come up, I was trying to find the plans, and I don't know how they're linked because it's a continued case. Unlike tonight's cases, I was having trouble finding the plans. But anyway, thank you.

CONSTANTINE ALEXANDER: Okay.

Mr. Rafferty, did you want to comment at all about the tree?

ATTORNEY JAMES RAFFERTY: I would be happy to.

Mr. Digiovanni knows there is a rear abutter Mr. Strauss who is in support.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: It's a shared tree is it

fair to say? Or the tree is on his property, but a significant amount of the roots are --

JOHN DIGIOVANNI: It's on his property, but it's a massive tree. And we've been neighbors for many years. And we collaborate on pruning. Even if it's on our property, we don't prune it. We use his arborist because he's very sensitive about the tree. So that's not been news to us. And so we've had his arborist as well as another arborist come out and make sure we take all the precautions to protect the roots during any of this construction. So I can assure you we are equally and we've been in communication with Mr. Strauss. And so we share his concern and we are, we are, we are as concerned, if not more, to keep that tree healthy through any construction.

CONSTANTINE ALEXANDER: Okay. Thank you.

JOHN DIGIOVANNI: Thank you.

CONSTANTINE ALEXANDER: Sir, you wanted to speak?

GLENN DANSTER: Yeah. I'm Glenn Danster

(phonetic). I live on the second floor of the 37 Mount Auburn and I just want to say that I'm in favor of the project. I know the condition the house is in now. It's not great. I love living there, but I've seen the plans for the new design and I think it will be beneficial to the neighborhood. I'm in favor.

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

Anyone else wish to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of just one letter from Mr. Strauss, Robert B. Strauss of 22 Berkeley Street. (Reading) As owner of the property 4-6 Hilliard Place in Cambridge, I am an abutting neighbor of the proposed redevelopment of 137 Mount Auburn Street in Cambridge. Having received the well-presented materials on the project and having reviewed the project with the architect, I am writing to support the request for

a gross floor area increase and reduction of side yard setback if needed.

And that's it.

So I'm going to close public testimony.

Any comments? Questions from Members of the Board?

PATRICK TEDESCO: Just a question. You said you spoke to other abutters. The other direct abutter, was there direct conversation with that owner? I presume that's owner-occupied.

JOHN DIGIOVANNI: So, yes, on either side.

PATRICK TEDESCO: On both sides?

JOHN DIGIOVANNI: Yes. We are the owners on both sides.

PATRICK TEDESCO: Okay.

ATTORNEY JAMES RAFFERTY: And he supports it.

PATRICK TEDESCO: Okay. I wasn't aware of that.

JOHN DIGIOVANNI: No, I understand.

ATTORNEY JAMES RAFFERTY: That's a good question.

CONSTANTINE ALEXANDER: Anybody else wish to
speak?

PATRICK TEDESCO: I just, I've always been curious
about the history of the crest on the building.

JOHN DIGIOVANNI: So that's Thomas Beer who was my
neighbor. I lived on Hilliard Street for a dozen years. So
I -- that's how I know Mr. Strauss and that was sometime
ago, and knew Mr. Beer. So he was there from when he was 17
and lived in this house for a long time. So that's his
crest and we've left it on there since we purchased it and
we will be sure it gets back to him.

PATRICK TEDESCO: I was curious.

JOHN DIGIOVANNI: Yeah, it's a family crest.
Beer, B-E-E-R. Yeah.

CONSTANTINE ALEXANDER: Okay.

We ready for a vote? We have two matters to be
voted on tonight. The first is a Variance for the

dimensional requirements that Mr. Rafferty has addressed.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that given the shape, the narrow shape of the lot, literal enforcement would prevent any meaningful development of the property whether it be by the current petitioner or any successor.

That the hardship is owing to the shape of the lot. It's unusually narrow and relatively small for the neighborhood.

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

In this regard the Chair would note that there appears to be no opposition to the proposal.

That the proposal, although it's not a Zoning

matter, has been approved by The Half Crown Marsh District.

Did I get it right?

ATTORNEY JAMES RAFFERTY: Yeah.

You should have their communication.

CONSTANTINE ALEXANDER: I have it in the back. We always get the statement. In the back -- I have it right there.

ATTORNEY JAMES RAFFERTY: I mean, it's -- I mean it -- I'm sure you know that's a public hearing. There's staff and they issue something called a Certificate of Appropriateness.

CONSTANTINE ALEXANDER: Yeah, we get those quite often in our cases.

ATTORNEY JAMES RAFFERTY: Understood.

CONSTANTINE ALEXANDER: And the only comment they had was that they asked that the applicant change the roofing material to a historically-appropriate roofing material, use masonry for the chimney, and submit final

plans to staff for review with the architect member of the Commission.

ATTORNEY JAMES RAFFERTY: Thank you, if I may be allowed?

CONSTANTINE ALEXANDER: Yeah.

ATTORNEY JAMES RAFFERTY: That was done, and I failed to point that out. So the suggested modifications to the roofing material and the masonry on the chimney is what's before the Board in these plans.

CONSTANTINE ALEXANDER: Is what's reflected in the plans?

ATTORNEY JAMES RAFFERTY: In these plans. Is reflected in these plans.

BRENDAN SULLIVAN: Does the roofing material, does that also include the front porch roof or is it the main body of the house? Because right now you're showing a metal.

ATTORNEY JAMES RAFFERTY: Right. The entire

structure had that style standing seam roof. So it was removed from the main body of the house and left on the porch.

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: And so and that's -- it was approved with it by -- but a request to give additional thought to it. So that was the response to the additional thought.

CONSTANTINE ALEXANDER: Okay.

So I think I got to the point where we ticked off the three elements that you need to satisfy to get the Variance you're requesting.

And, therefore, the Chair moves that we grant the Variance on the condition that the work proceed in accordance with these plans prepared by T.G.A.S., the first page of which has been initialed by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

CONSTANTINE ALEXANDER: Let's turn to the Special Permit. This is a Special Permit to reduce the required parking on the lot. Under our Ordinance three units -- a two-family house requires two parking spaces on the lot that comply with all of our dimensional requirements of our Ordinance. And you are only going to have one. And you're going to rely on street parking for the other?

JOHN DIGIOVANNI: Yeah.

CONSTANTINE ALEXANDER: What was the issue in the -- you mentioned --

ATTORNEY JAMES RAFFERTY: Well, no, no. It could still accommodate tandem. It's a long driveway. It's had tandem parking for a while.

CONSTANTINE ALEXANDER: You've asked for relief to reduce the required parking.

ATTORNEY JAMES RAFFERTY: Well, we're asking for modifications because there will only be one compliant space.

CONSTANTINE ALEXANDER: The advertisement just didn't say quite that, that's all. That's not a problem for purposes of the vote.

ATTORNEY JAMES RAFFERTY: Right. I think the advertisement is -- or the -- yeah, the reference to the section deals with modifications to the required.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So I've always taken the view that if you don't meet the required amount of parking, then you need, you need that Special Permit. That we're going to have one compliant space. Whether the owners of the house are able to manage a tandem arrangement, that involves shared keys and a few other things. So I don't think you could -- the owner could assure that it would be always utilized in the tandem form, so it's essentially

asking for one space relief.

CONSTANTINE ALEXANDER: Yeah, really what you're asking for is -- and now you're confusing me. You could have asked for relief from the dimensional requirements for parking. So you could have two noncompliant parking spaces on the lot. Noncompliant in terms of our dimensional requirements for parking.

ATTORNEY JAMES RAFFERTY: Well, I would have thought -- I would consider that to be appropriate relief if we had two spaces that could be moved that were less than full size either in terms of width or length. That's not what we have here. Clearly this would be a separate section of the Ordinance that says that cars need to move independent of one another.

CONSTANTINE ALEXANDER: Yes, right.

ATTORNEY JAMES RAFFERTY: My concern is that going forward, I don't think in good faith one can represent that over the life of the building, that there would always be

tandem parking because it would depend on the relationship between the two unit owners.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: So I treated the application as though effectively there's one parking space and we should seek a reduction in the required amount. But it has historically had a single driveway accommodating three units. So that condition is unchanged, but the demolition of the house I think may, it may remove the pre-existing parking condition.

CONSTANTINE ALEXANDER: Understood. Okay, well, I'll leave that to the Inspectional Services Department to sort out if there are any parking issues going on later on.

ANDREA HICKEY: I have a question about the one space that you say does comply. Are you saying it complies because historically there has always been parking there? Or does it comply in terms of its distance from the side of the structure?

ATTORNEY JAMES RAFFERTY: Right. Well it does comply that way. That, the driveway's dimensionally conforming.

ANDREA HICKEY: Okay.

ATTORNEY JAMES RAFFERTY: So it's a dimensionally conforming parking space. I don't have the dimensions here.

CONSTANTINE ALEXANDER: That's my recollection of the plans, it is.

ATTORNEY JAMES RAFFERTY: Right. It needs to be ten feet wide.

JAMIE EMERSON: The concern is the access to the main road, the second spot.

ATTORNEY JAMES RAFFERTY: Right. What page?

JAMIE EMERSON: Proposed site plan.

JOHN DIGIOVANNI: Third page in.

ATTORNEY JAMES RAFFERTY: The standards are mentioned ten feet wide, 18 feet in depth. The driveway needs to be ten feet wide, the parking space needs to be 18

feet wide.

ANDREA HICKEY: Right. But what about the distance from the side of the house?

ATTORNEY JAMES RAFFERTY: The distance from the side of the house is -- it doesn't apply for structures that were already in existence, but of course this is a new structure.

ANDREA HICKEY: Exactly.

ATTORNEY JAMES RAFFERTY: I think it was a five-foot setback.

ANDREA HICKEY: And do you meet that?

ATTORNEY JAMES RAFFERTY: That's a good question.

It would appear that it does not. It would appear that if the full setback in that area is how much?

JAMIE EMERSON: Eleven foot, ten.

ATTORNEY JAMES RAFFERTY: Eleven foot, ten. Then we would need ten plus five. So it may be that we need additional relief.

BRENDAN SULLIVAN: I read the request as one, to waive the dimensional requirements for two spaces. So to me it's a dimensional request and not necessarily to reduce the amount of parking.

ANDREA HICKEY: Right, but I'm saying I think they also need relief for the location of the spaces with respect to the side of the structure.

BRENDAN SULLIVAN: Well, and that's a dimensional.

ANDREA HICKEY: Yeah.

BRENDAN SULLIVAN: So if they don't meet the setbacks --

ANDREA HICKEY: But to me that's different than requesting, you know, relief for the number of spaces. They are two different requests.

PATRICK TEDESCO: But you would also need that request given it's a tandem solution.

ANDREA HICKEY: I'm sorry?

PATRICK TEDESCO: You also would need relief for

the number of spaces because the tandem --

ANDREA HICKEY: I agree with that.

PATRICK TEDESCO: Which is what you're asking for.

BRENDAN SULLIVAN: It's number and it's also dimensional.

ATTORNEY JAMES RAFFERTY: So the setback, the setback requirements associated with the off-street parking are -- bear with me one second.

CONSTANTINE ALEXANDER: I have a problem.

ANDREA HICKEY: Just so I'm clear, is the request made for Special Permit for dimensional as well as number of spaces?

CONSTANTINE ALEXANDER: The application says, the only thing it says, is to maintain a single parking space on-site. There's no mention of dimensionals. And giving dimensional relief even for the single parking space. It's not as good as it could be I guess let's put it that way. What are the sections you cite? Section 6.36.

ATTORNEY JAMES RAFFERTY: 6.36, which is the quantity requirements. Having said that, what I was checking is that the dimensional requirements involving setbacks are subject to waiver by Special Permit.

ANDREA HICKEY: Right. I don't think we're being asked in this request for that.

ATTORNEY JAMES RAFFERTY: No, I think, I think one could say that the 6.36 reference is --

ANDREA HICKEY: All encompassing?

ATTORNEY JAMES RAFFERTY: Well, that would be an expansive view, right? And I could withstand the criticism that it's narrower than it ought to be. But it's advertised as a Special Permit. It has to do with parking. 6.36 goes to the quantity requirements. And 6.34 --

JOHN DIGIOVANNI: That's it.

ATTORNEY JAMES RAFFERTY: 6.43 goes to the layout of the driveways and the parking spaces. 6.43.4. But then it goes on to say that the Board of Zoning Appeal may grant

a Special Permit modifying the provisions of this section. So we're here looking for Special Permit, and I'm -- we've correctly identified the relief. I think we, we did not do as accurate a job in identifying the section. So I would defer to the Board as to whether they would feel the need to re-advertise and hear the case on for a different Special Permit?

CONSTANTINE ALEXANDER: That's exactly the issue. I mean, the problem here is a failure to cite Section 6.43 in the application and in the advertisement. Personally, I think you may have a defect in your -- I would hear the case, I'd vote on the case, and if we grant relief, you have to live with the fact that maybe you have a defect.

ATTORNEY JAMES RAFFERTY: I agree. And between here and the building permit, sometimes involves a return here. I recognize that. And if that proves to be the case, we'll have the pleasure of seeing you again apparently.

CONSTANTINE ALEXANDER: Well, why not -- rather do

that, why not just -- if you might have to come back, why not just continue the case? I hate to do this.

ATTORNEY JAMES RAFFERTY: Because you've already voted the case.

ANDREA HICKEY: Yeah, I think that creates a problem in the first case.

CONSTANTINE ALEXANDER: We didn't vote on the Special Permit.

ANDREA HICKEY: No, but I think we need to have parking incorporated into this property in order for the first case to stand. They're linked. If there's no parking --

ATTORNEY JAMES RAFFERTY: It's not a case that there's no parking.

CONSTANTINE ALEXANDER: If there's no parking, then they're not complying with the Ordinance. You have to have a parking space for a dwelling unit.

ATTORNEY JAMES RAFFERTY: No, I agree. The

parking space -- well, what I'm saying is that it's not a case of no parking. It's a case of whether or not the Special Permit applied for provides the necessary relief for the space as dimensioned here.

CONSTANTINE ALEXANDER: Well, I'm of a mind that I think there are some technical problems. I think it's your problem more than ours. I'm not as troubled about granting the Special Permit, because there is some merit to Mr. Rafferty's argument about the Section 6.36 citation is sufficient. I have my doubts, but I can understand it. So --

ATTORNEY JAMES RAFFERTY: Well, if --

CONSTANTINE ALEXANDER: If you want to come back again, we can vote tonight and have a second hearing to clear this up or not. It's up to you.

ATTORNEY JAMES RAFFERTY: Well, if -- and I don't mean to force anyone's hand here, so I only ask if other Board Members shared the more liberal view of the

advertisement and the citation to 6.36, our preference would be to ask for that vote to occur, and then if ISD took a different view than what the Board did tonight, we would take the necessary steps to return.

CONSTANTINE ALEXANDER: You have to come back, right.

ANDREA HICKEY: I'd be okay with that.

BRENDAN SULLIVAN: I would accept the plan as presented to us, the application.

CONSTANTINE ALEXANDER: Yeah. And then leave it up to ISD to -- that's how I would come out, too.

ANDREA HICKEY: Yeah, I mean I don't love it. I wish it was more specific, but --

BRENDAN SULLIVAN: It came up a little short.

ATTORNEY JAMES RAFFERTY: Yeah, I share your concern. I credit you for pointing it out, and I learn a lot in this business, and now I've learned something I should have paid closer attention to.

CONSTANTINE ALEXANDER: Okay. We haven't taken the vote on the Special Permit. So I think we are ready to take the vote since that's how you would like us to proceed.

The Chair moves that we make the following findings with regard to the Special Permit that's being sought with regard to the required parking on the site:

That the requirements of the Ordinance cannot be met without a Special Permit.

That traffic generated or patterns of access or egress will not -- resulting for what is being proposed will not cause congestion, hazard, or substantial changes in established neighborhood character.

That the continued operation or development of adjacent uses as permitted in the Ordinance will not be adversely affected by what you're proposing with regard to parking.

And no nuisance or hazard will be created to the detriment of the health, safety, and/or welfare of the

occupant of the structure or the citizens of the city.

And that in general what you propose to do with regard to parking will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of the Ordinance.

So on the basis of these findings the Chair moves that we grant the Special Permit requested regarding parking subject, again, to compliance with the plans referred to with the Variance we granted.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

ATTORNEY JAMES RAFFERTY: Thank you very much. Appreciate your time.

* * * * *

(7:40 p.m.)

(Sitting Members Case No. BZA-013611-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013611, 35-37 Berkshire Street.

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

ATTORNEY JAMES RAFFERTY: Good evening, again, Mr. Chair. For the record, James Rafferty of 675 Massachusetts Avenue appearing on behalf of the applicant. Seated to my right is Lou Fredo Villnaueva V-I-L-L-N-A-U-E-V-A. Mr. Villnaueva is the representative of the owner of this property. The owner is a different entity but Mr. Villnaueva has been in control of the property for quite sometime.

CONSTANTINE ALEXANDER: How long has the current

owner of the property been the owner of the property?

LOU FREDO VILLNAUEVA: Since September -- I think September last year. Somewhere in there.

CONSTANTINE ALEXANDER: Of last year?

LOU FREDO VILLNAUEVA: Yes.

CONSTANTINE ALEXANDER: This is before the fire or after the fire?

ATTORNEY JAMES RAFFERTY: No, no, before the fire. And of course as the Chair notes, this was a home that was destroyed in the Berkshire Street fire and the application seeks to rebuild the home. A footprint of the home is identical to the footprint of the prior home. The square footage is the same. The home, however, is -- getting right to the heart of the case, the home has -- had a basement of seven feet greater in height, so that square footage was included. And the property abuts a large multi-family, the Saint Patrick's Church, which has 40-plus units next to it and a parking lot next to it. So the owner was seeking to

create an additional dwelling unit as part of the reconstruction of the property. The -- an as-of-right opportunity would allow the basement to be included into the first floor unit to make it a duplex-style unit, it would have no implication. The creation of the additional unit here does have an implication both in terms of lot area per dwelling unit and a parking implication. There are three -- three parking spaces?

LOU FREDO VILLNAUEVA: Yes.

ATTORNEY JAMES RAFFERTY: Three parking spaces at the property.

I'm sure the Board is familiar with the neighborhood. The -- all of the hardships that stem from the fire that unfortunately it was, it was quite a devastating fire. The house had to come down and the applicant is now -- in reviewing the plans to construct the new house, is seeking to create additional dwelling unit in response to some of the hardship that has been endured as a

result of the fire and the loss of the dwelling unit.

CONSTANTINE ALEXANDER: I understand about the hardship that results from the loss of the dwelling unit. As you know, that's not the hardship that requires -- or justifies granting of a Variance. I mean we have it, a situation here is you have -- taking advantage, if you will, maybe that's the wrong way of expressing it. The house has burned down and so I'm going to rebuild it, let's see if I can get another dwelling unit on the property, maybe increase the value of my investment.

ATTORNEY JAMES RAFFERTY: Well, there's no, I mean, that is the reality, that it is part of the reconstruction, the examination of how to, you know, the City Council amended the Ordinance so in such a way that not even a Special Permit is now to rebuild. So rebuilding this house, the reality is that the basement, not withstanding its seven-foot height, was never designed or used in a way that it can be now when rebuilding there will

be a brand new basement, it could have window wells, it can be functional living space. It will provide a home in an area that is thickly settled to begin with and for which there is a clear need for housing in this area. So the relief is related to the fact that the building itself has a basement that is usable and it's a -- one of the provisions of the Ordinance is the most logical use of the property, it seems like a logical use for this space to allow it to accommodate a dwelling unit. It's going to be able to have fully accessible egresses. It will be built out in a way that would make it not a marginal dwelling unit, as is sometimes the case with basement dwelling units. And that's the reason that the applicants sought to come to the Board to see if the Board would be --

CONSTANTINE ALEXANDER: But in the case we just heard, 137 Mount Auburn Street, you have the use --

ATTORNEY JAMES RAFFERTY: The one with -- Mr. Digiovanni's case?

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: I remember that, yes.

CONSTANTINE ALEXANDER: I hope so. If not, I would be worried.

You -- the basement unit was going to be incorporated into the first floor unit and be one dwelling unit.

ATTORNEY JAMES RAFFERTY: That's right.

CONSTANTINE ALEXANDER: What's wrong with doing that here? We have a larger -- that first floor unit would be larger in size obviously.

ATTORNEY JAMES RAFFERTY: Well, so --

ANDREA HICKEY: And you don't need an extra parking space relief. I mean, you've got --

PATRICK TEDESCO: You can do that as of right is that what you said.

ATTORNEY JAMES RAFFERTY: Right, right. No, no -- true. And the direct answer to that is the size of

the unit. So in the case of Mr. Digiovanni, the building that was just here, the lot is only 40 feet wide. The width of the building is slightly below 30 feet. So the floor plates are only about 600 square feet per floor. In this case you'd wind up with a dwelling unit. I mean the floor plates in this case are about 1400?

LOU FREDO VILLNAUEVA: It's about 13 and change.

ATTORNEY JAMES RAFFERTY: 13 and change. You'd end up with a dwelling unit merely 3,000 square feet, which is, which is not a conventional dwelling unit in that location. So you're right, that's -- because I mean -- and that's the, that's the answer to why the approach to the duplexing of the first floor unit wasn't as appealing as it was in the prior case.

PATRICK TEDESCO: What's the proposed ceiling height in the basement unit?

LOU FREDO VILLNAUEVA: Everything is no more than eight feet.

PATRICK TEDESCO: And that, you said prior to the fire it was a seven-foot, six ceiling?

LOU FREDO VILLNAUEVA: I didn't think it was seven-foot, six. It was seven feet and change.

PATRICK TEDESCO: So you are lowering the basement slab or you're raising -- you're not raising the height of the building?

LOU FREDO VILLNAUEVA: Actually the building was above 35 feet. The ceiling height were about ten and a half, the old one.

PATRICK TEDESCO: Okay.

LOU FREDO VILLNAUEVA: And now, right now the way we have it is it's somewhere around 28 to 32 feet in height.

PATRICK TEDESCO: Okay, so you're proposing nine foot ceilings above --

LOU FREDO VILLNAUEVA: No. Eight foot ceiling.

PATRICK TEDESCO: Eight foot ceilings on the first and second floor?

LOU FREDO VILLNAUEVA: Yeah.

PATRICK TEDESCO: Wow. And nine feet on the third floor. So you're building a structure shorter than the one --

ATTORNEY JAMES RAFFERTY: Yes.

LOU FREDO VILLNAUEVA: And that's because of the code change it for the stairs and we can't use winders as we had before. They were 42 inches. Now, now they're going to be 36 but with landings.

PATRICK TEDESCO: Well, you can it's just that the stairs are going to take up more space.

LOU FREDO VILLNAUEVA: Right. And we can't go above eight because then we would take more room on the second floor.

PATRICK TEDESCO: Well, I mean that's, that's a choice. You can accommodate a longer stair, it's just going to take more space out.

ATTORNEY JAMES RAFFERTY: True, right.

So but the consequence that the -- you're right, the building is a few feet --

PATRICK TEDESCO: Shorter.

ATTORNEY JAMES RAFFERTY: -- shorter than the prior building and below the allowed height.

There was a lot of discussion at the time of the fire and the need for dwelling units, and additional dwelling units. There was even some suggestion that this housing stock should be looked at to become more modernized: And this, frankly, would be a way to modernize a building like this. We don't see new three-family structures being built all that often anymore in terms of a housing product. And this is an effort to use that housing product in a way that would allow them to take advantage of the new heating and cooling and plumbing situations that don't require basement -- or allows for basements to be something more than just storage and mechanical space. So for that to -- that opportunity now exists in this building and the

desire was to allow for an additional dwelling unit.

CONSTANTINE ALEXANDER: But at the end of the day basically you could do, you could still have a three -- you could have a duplex apartment on the first floor, first floor and basement. The issue is you basically you -- the size of the unit, you think the size of the unit would be too big and therefore you want to make a separate unit out of it. I'm still troubled by it. I think it's basically a bootstrap operation. You're taking advantage of the fire to create an additional dwelling unit.

ATTORNEY JAMES RAFFERTY: Well, with all due -- I mean, it's a rather harsh characterization taking advantage of the fire. They suffered from the fire and that they're trying to bring a logical approach to rebuilding a structure here that's reflective of Building Code technology in 2017.

BRENDAN SULLIVAN: Well, at the time of the fire, too, this was just a shell. It wasn't a functional home.

ATTORNEY JAMES RAFFERTY: At the time of the fire,

correct.

ANDREA HICKEY: Right, but it was a three-unit shell not a four-unit shell.

ATTORNEY JAMES RAFFERTY: No, right.

BRENDAN SULLIVAN: So, it was just a shell, that's right.

So, you know, not really supposed to delve into the finances, if you will, hardship and so on and so forth, but the value of that property at that day was minimum. It was really just the land value and whatever, you know, \$50,000 worth of a shell is. So anyhow, just throw that out in context that it wasn't necessarily a three-family that burned to the ground. It was a shell of a three family. The question that I asked myself when I see this is would we grant other houses in that area another apartment --

CONSTANTINE ALEXANDER: That's exactly right.

BRENDAN SULLIVAN: -- and waive the parking requirements, so on and so forth? And I guess I would have

to say probably not.

CONSTANTINE ALEXANDER: I don't think I would either. That's the reason I raised -- you expressed your views better than I did express mine, but that's exactly where I'm coming from, too.

JANET GREEN: And can I ask why you wouldn't?

BRENDAN SULLIVAN: Add another unit in the basement there?

JANET GREEN: Yeah, yeah.

BRENDAN SULLIVAN: Well, I think because --

JANET GREEN: I mean, if other --

BRENDAN SULLIVAN: -- it goes back -- go back to the preamble of what our function is.

JANET GREEN: Do you think it's too crowded?

BRENDAN SULLIVAN: -- to prevent the overcrowding of land. I mean, you know, I can be somewhat and uses and that can be somewhat all encompassing. We can't control the

number of people in a building, however, to sanction more apartments, I think that then gets into the overcrowding aspect, and I think it does. And it's a very tightly packed neighborhood. As you could see where a fire which started in a building jumped from one to the other to the other, you know. So I think that the hardship of providing another unit is not there and I think that -- I'm not sure what the hardship would be that would really warrant another unit in this building or any of the other buildings in that immediate area.

CONSTANTINE ALEXANDER: And if we grant the relief, the FAR will be 0.66 in a 0.75 district.

ATTORNEY JAMES RAFFERTY: But with all due respect, Mr. Chair, that's not before the Board.

CONSTANTINE ALEXANDER: No, that's not before the Board, but that's a consequence if we grant you relief.

ATTORNEY JAMES RAFFERTY: But the Council has already spoken to that. Council said that non-conforming

structures that were burnt by fire can be rebuilt as a right. They no longer even need a Special Permit.

CONSTANTINE ALEXANDER: We don't know what the FAR was before the fire.

ATTORNEY JAMES RAFFERTY: Well, we've represented it was this footprint and it was this dimension.

CONSTANTINE ALEXANDER: Why is it left blank in the -- not applicable. It's on the --

ATTORNEY JAMES RAFFERTY: Because it's an empty lot now. It's zero.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: And I struggle with that and say okay, what are the existing conditions? There's zero GFA there today. But we know from the basement and from the footprint and the floor plans, and what I'm suggesting is acknowledging that the density and the close adjacency of the structure, we're not going to change that relationship, that's already there. It happens to abut a

40-unit dwelling. And the prevailing lot area per dwelling unit density here, there's a number of three- and four-family houses, and the overall -- one would be hard pressed to find any structure on the lot that complied with the lot area per dwelling unit. So it does represent an opportunity in the reconstruction of this building to utilize the basement in a way that hadn't historically been done. And we are before the Board asking that the Board recognize that to be a logical use, which the Ordinance does direct Board Members should be responsible for logical use of property. That's the case. I don't think I'll take any more time because I think I understand the sentiment of the Board, but that is the Applicant's case.

The housing that would be created here would be of a size and style that would serve a population that is in high demand seeking housing. It's got close adjacency to the City's commercial district in Kendall Square. And it would be assistance in creating a revitalized neighborhood

that was significantly affected by this fire including my client.

PATRICK TEDESCO: This might not -- I'm sorry.

CONSTANTINE ALEXANDER: No, no, go ahead.

PATRICK TEDESCO: Janet, were you going to ask something?

JANET GREEN: I was going to ask can you say again what the City Council specifically said?

ATTORNEY JAMES RAFFERTY: I have a copy of the Ordinance. What they did is they amended Article 8 which used to require that a Special Permit be obtained if a non-conforming structure was destroyed by fire. They modified that in direct response to this incident and adopted this Ordinance which has the effect of saying if you rebuild within two years, you don't need -- you no longer need the Special Permit. And there's a special call out for structures destroyed, destroyed by fire. So it was a policy acknowledgement on the part of the City. And that's why I

just wanted to point out that the, it strikes me as rather irrelevant as to where the FAR of the structure is now. The FAR on the non-conforming structures, those FAR's have been sanctioned, if you will, and can be rebuilt as of right.

CONSTANTINE ALEXANDER: Any other comments from members of the Board?

JANET GREEN: So, you know, just if I can just say --

CONSTANTINE ALEXANDER: Go ahead.

JANET GREEN: So this says: And provided that the structure as rebuilt, restored, relocated, or reconstructed shall not be greater in volume, footprint, or gross floor area. Shall not further increase any non-conformities that those of the original non-conforming structure and shall not further violate any dimensional requirements of the Ordinance.

And so what --

ATTORNEY JAMES RAFFERTY: Right, so we

don't qualify -- that's my point. I mean, if it didn't have language like that --

CONSTANTINE ALEXANDER: You wouldn't be here.

ATTORNEY JAMES RAFFERTY: We wouldn't be here. We would say look at FAR. Admittedly that, that solely addresses the issue of FAR. That's why we're not before the Board.

JANET GREEN: Right.

ATTORNEY JAMES RAFFERTY: But, what we're here, really, is to see about the dwelling unit. If the dwelling unit -- if the relief were not to be granted, the Applicant would presumably proceed under the -- with the as-of-right provisions in the recently amended Article 8.

CONSTANTINE ALEXANDER: I think it's fair to say that this Ordinance as adopted was intended to facilitate the rebuilding of the neighborhood.

ATTORNEY JAMES RAFFERTY: Agreed.

CONSTANTINE ALEXANDER: But not to change the

Zoning, if you will, of the neighborhood. And that's the last part that you've read.

JANET GREEN: Right.

CONSTANTINE ALEXANDER: It's supposed to still be --

ANDREA HICKEY: To put you back where you were before, not in a better position.

ATTORNEY JAMES RAFFERTY: True. I would say, though, because I attended the Ordinance Committee hearings on this. Councillor Carlone, the Chairman of the Ordinance Committee, did discuss the appropriateness of making these structures usable and creating -- there's a lot of discussion about, this creating housing stock that reflects current living. But you could argue the other way and say were that to be the case, then it should have been reflected. But I'm only saying that there was an acknowledgement, but you're correct, it's not there. And I think they probably felt it was a case-by-case basis and the

Board would be well-positioned to make a determination. And in this case we're suggesting that the abutting structure alone, the backyard here is the parking lot of the 40-unit Saint Patrick's Church, that was all destroyed. They are going to increase their number of units. Now they have a different housing model there, housing stock.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: And the Applicant doesn't have any reservations about that. But I believe they, they are going to -- but they qualify under a Comprehensive Permit so they're not constrained by that.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: If one were to just look at the characteristics of the surrounding properties, which is an appropriate criteria in evaluating an application such as this, I do think if it was next-door to a single-family house as opposed to a 40-plus multi-family dwelling unit, I think it does have some relevance.

CONSTANTINE ALEXANDER: Okay.

Patrick.

PATRICK TEDESCO: Well, this might not be of consequence, but these are going to be rental units, do you know?

ATTORNEY JAMES RAFFERTY: Are they condo or rental?

LOU FREDO VILLNAUEVA: I don't know what they're going to do if they're going to be a rental or condo.

PATRICK TEDESCO: The other thing I noticed is that the first floor unit is accessible. Fully accessible. Which I'm presuming it was not prior to the fire.

ATTORNEY JAMES RAFFERTY: Right, right.

PATRICK TEDESCO: It also tells me that I got to think the first floor traditionally was a little higher than above the street.

LOU FREDO VILLNAUEVA: It was higher, yes.

PATRICK TEDESCO: So, again, I wonder about the

seven-foot ceiling in the basement, because you're lowering the first floor. It doesn't really matter, but -- and, Sean, you might correct me if I'm wrong. The need to provide an accessible unit is triggered by the four-family.

SEAN O'GRADY: I don't. That's Building Code stuff, I wouldn't know that.

PATRICK TEDESCO: It's MAAB, and I should know. I wonder if the owner is providing an accessible unit out the goodness of their heart or they're doing this because it's triggered by the fourth unit?

LOU FREDO VILLNAUEVA: No, they had that conversation with the architect, and that was because they wanted to provide more accessibility to handicapped and that was the only way to do it. You know, if anybody needs access.

PATRICK TEDESCO: See, I'm torn between the concern about precedent, which I share with the other Members of the Board, and the need for more family housing,

affordable family housing. I don't know if this is affordable. That's why I asked about rentals. The fact that there's an accessible unit being provided sort of suggests to me that this is a rental unit with the community needs in mind. I don't know for sure. I know creating a duplex with that basement would essentially eliminate the ability for accessibility in the building. But I'm, you know, I'm torn frankly.

ATTORNEY JAMES RAFFERTY: Mr. Chair, may I ask along those lines, if I ask that the Board would see any merit in the Applicant seeking a continuance at this time, and to the issue of the public policy benefit, there would be an opportunity for a covenant to be executed that would allow for the fourth unit to meet the City's affordable design requirements. And that the fourth unit would be an affordable unit and which could be made -- if we returned and we had the impromada of the City's Affordable Housing Trust on this, it could be made a condition of the relief,

and this unit that would be a nice size unit of about 1100 square feet, could become an affordable unit next-door to a building that contains 40 such units.

CONSTANTINE ALEXANDER: I think that's a good suggestion. I certainly have no -- I mean, I would like to see more, we all would, more affordable housing in the city. This would create one more affordable housing unit in a very good place. Because as you point out, there will be 46 units next-door. Yeah, if you want to pursue that.

How do other members of the Board feel about that? Rather than turning it down, which ends it --

JANET GREEN: Right.

CONSTANTINE ALEXANDER: -- or approving it without getting an affordable housing unit out of it.

ANDREA HICKEY: Yeah, I think that's something that is worth exploring.

ATTORNEY JAMES RAFFERTY: Okay.

ANDREA HICKEY: I'd also request that as part of

that covenant, that that first floor unit remain accessible even if it's not required by the triggering of the fourth unit sort of triggering the --

ATTORNEY JAMES RAFFERTY: We'd be bound by the plans as submitted anyway. We wouldn't make any change to that.

ANDREA HICKEY: Because to me then, that's really a win/win. We have an affordable unit and we have an accessible unit. I would be inclined to support that concept.

ATTORNEY JAMES RAFFERTY: Okay, well, I can certainly -- there are established covenants that we rely upon to -- and the affordability runs with the building, with the unit, comes with the life of the building. The perspective tenants are screened and approved by the City's Affordable Housing Department. So there are conveniently mechanisms in place. I think we could probably six, eight weeks perhaps be able to achieve something --

CONSTANTINE ALEXANDER: Well, as you know, this is a case heard so we have to make sure that we're all here.

ATTORNEY JAMES RAFFERTY: Right, in terms of thinking where we are now.

CONSTANTINE ALEXANDER: Yes. You started the dialogue. You say eight weeks from now you'd like to have the case reheard?

ATTORNEY JAMES RAFFERTY: I think that would allow ample time. I would need to review with the owner and understand it. But in that range feels adequate time for what I think needs to happen on the Applicant's side. Of course depending on the Members' schedules.

CONSTANTINE ALEXANDER: When would that be, what date?

SEAN O'GRADY: September 28th. That's two months.

CONSTANTINE ALEXANDER: Remember you got the rest of the -- August is a bad month if you will. People are not around. You need more time than that?

ATTORNEY JAMES RAFFERTY: That's eight weeks. I think we can do it. Because I think there isn't -- it's not much of a negotiation. I think if an opportunity -- it's been my experience with the -- Ms. Boggs (phonetic) of the affordable housing, if I present her with an opportunity for a unit, I think she would review it and execute the standard convenance for such units. I would think eight weeks.

ANDREA HICKEY: Do you need that much time? Would you prefer less time?

ATTORNEY JAMES RAFFERTY: Well, I do think that that probably makes sense. I know my client would be eager to do that, but I think in fairness I mean, they're busy --

CONSTANTINE ALEXANDER: I think it's important -- let's err on the side of being too far out. Because we'll know for that too far out date everybody could make it. I assume everybody could make September 28th?

ANDREA HICKEY: Yeah.

CONSTANTINE ALEXANDER: Okay?

ATTORNEY JAMES RAFFERTY: Okay.

CONSTANTINE ALEXANDER: I've got to make my motion first.

ATTORNEY JAMES RAFFERTY: Understood.

CONSTANTINE ALEXANDER: The Chair moves that we continue this case as a case heard until seven p.m. on September 28th subject to the following conditions:

First, that the petitioner sign a waiver of time for a decision.

Mr. O'Grady will give to you.

SEAN O'GRADY: They've done it.

CONSTANTINE ALEXANDER: That's right you've already done it because this case was continued once before. You'll work it out.

ATTORNEY JAMES RAFFERTY: Whatever you need, yes.

CONSTANTINE ALEXANDER: Second, that the posting sign must be -- you know, this drill. This is mostly for the benefit of your client. The sign that you have up right

now has to be continued for the 14 days before September 28th. You've got to change the date to September 28th on the sign. And the time, very important. People forget that, to seven p.m. You can either do it by literally magic marker crossing out the current sign. But make sure, you don't have to keep the sign up now, till 14 days before September 28th. But when that 14 days starts to run, that sign's got to go back up. Mr. Rafferty will make sure you --

ATTORNEY JAMES RAFFERTY: The good news is the time is already at seven. He's only going to change the date because tonight was at seven.

CONSTANTINE ALEXANDER: That's right. You made a good point. I forgot about that.

And lastly to the extent that new plans are going to be presented to us on September 28th, the dimensional form is going to change, they have to be in our files, the ISD files, no later than five p.m. on the Monday before

September 28th. That's to allow us and members of the public to review the files if they have questions on what's going on. You have to satisfy all three conditions.

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

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued. See you in September.

ATTORNEY JAMES RAFFERTY: Thank you very much.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

* * * * *

(8:05 p.m.)

(Sitting Members Case 56 Amory Street, BZA-009632:

Constantine Alexander, Brendan Sullivan, Janet Green, Andrea
A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: Before we turn to our regular agenda, I have a brief matter to run before the Board. We have a request for an extension of a Variance we previously granted. This Variance would elapse the same statutes unless they were extended. The property involved is 56 Amory Street. And the request is: We would like to request an extension in exercising the Variance that was granted to us. We are concerned that our contractor is away on vacation and may not return in time to file for the Building Permit before the one year expiration in exercising the Variance.

I would, I would move that we grant the extension.

All those in favor?

(Show of hands.)

CONSTANTINE ALEXANDER: Five in favor. Extension granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

* * * * *

(8:05 p.m.)

(Sitting Members Case No. BZA-013661-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey,

Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013661, 16 Garfield Street.

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

PETER JAMES: Yes, hi, good evening.

CONSTANTINE ALEXANDER: Good evening.

PETER JAMES: I'm glad I wasn't first because I haven't been through this before so I made some notes. My name is Peter James. I'm here representing Susan Jung, J-U-N-G. Susan can't be here tonight. She's a nurse at MGH. I'm a friend of hers. I'm a neighbor and she asked me to come in. So listening to Mr. Rafferty, I'll briefly do this and then....

So the house is located at 16 Garfield. It's one house in from Mass. Ave. and Junior's Service Station is catty-corner. Cambridge Affordable Housing is an abutter. Incidentally I have letters from abutters on both sides

supporting the project.

CONSTANTINE ALEXANDER: We have letters, too, which I'll read into the file at the appropriate time.

PETER JAMES: Okay. And actually this is a letter from Susan.

CONSTANTINE ALEXANDER: Okay. This is a letter apologizing why she can't be here.

PETER JAMES: Yeah.

CONSTANTINE ALEXANDER: She has a representative.

PETER JAMES: You know, I looked at what the National Historic Society had to say about Garfield. I live on Prentiss, so it's news to me. It's kind of funny.

CONSTANTINE ALEXANDER: You live where?

JANET GREEN: Use the microphone right there.

PETER JAMES: Oh, I'm sorry. I live on Prentiss Street which is one over. So it's kind of interesting to me to read about. Apparently Garfield Street was developed by a number of builders and architects between 1895 and 1901.

What they like about the street now, as they say in their notes on-line, is the consistency and setbacks which is true. You walk down Garfield and everything is set back about the same. They're all about 30 feet high and they all have about the same lot size. And they're all pretty quirky. I guess they call it Queen Anne, but I beg to differ with that.

Just, okay. So just a brief history of what you're looking at. Miss Jung bought this property, I don't know, some years ago. There was -- this project was approved in 2001. I know times change, but that's the history.

CONSTANTINE ALEXANDER: Right. The Variance lapsed unlike the one we just voted on.

PETER JAMES: Right.

The hardship is -- it's a usable space. I've looked into it. There's a turret --

CONSTANTINE ALEXANDER: The dormer is intended to

provide basically access from one part of the third floor to the turret.

PETER JAMES: Which is already usable, legal --

CONSTANTINE ALEXANDER: Yes, right.

PETER JAMES: -- space.

CONSTANTINE ALEXANDER: So you're adding 16 feet to the building dimension.

PETER JAMES: You're not gonna let me do this, are you?

CONSTANTINE ALEXANDER: And that with the plans, can you confirm that the plans you're proposing tonight are the very plans we approved in 2001?

PETER JAMES: Yes.

CONSTANTINE ALEXANDER: None of us, I don't think -- maybe Brendan was on the Board. No one else on this Board was here in 2001.

PETER JAMES: Right.

CONSTANTINE ALEXANDER: Okay. I'm sorry, keep

going. I didn't mean to interrupt you.

PETER JAMES: No. So I was looking at the hardship things.

CONSTANTINE ALEXANDER: Right.

PETER JAMES: To me it doesn't try to make an end run around the code because in creating new living area, the whole cloth, if you will, but it's usable area. You just have to crawl into it.

CONSTANTINE ALEXANDER: Okay.

PETER JAMES: So anyway, it's a really cool little space. I'd say the quirkiness of the structure itself presents the hardship which I think it has to be --

BRENDAN SULLIVAN: What would you use the space for?

PETER JAMES: You know, it's an open room and --

CONSTANTINE ALEXANDER: Kids' play area might be a good one if you have kids in the structure.

BRENDAN SULLIVAN: Store your gold bars or

something?

PETER JAMES: It's going to be a passageway into it. I think she's going to use it as sort of a yoga meditation.

PATRICK TEDESCO: She's also proposing to bring light into the common with a little lantern.

CONSTANTINE ALEXANDER: Yeah, but light for what purpose?

PATRICK TEDESCO: Yeah, well I'm just -- right now it's a dark space. She's daylighting it.

PETER JAMES: Right.

PATRICK TEDESCO: Which does not require any Variance.

CONSTANTINE ALEXANDER: No, that's right.

PETER JAMES: So the -- that's basically it for me.

BRENDAN SULLIVAN: I don't know, I mean from an architect standpoint, does it --

CONSTANTINE ALEXANDER: It's almost not noticeable.

PETER JAMES: You can't see the dormer.

PATRICK TEDESCO: The drawings were oddly presented in a way that --

JANET GREEN: What, Patrick?

PATRICK TEDESCO: I'm sorry. The drawings to me were a little bit odd in terms of the way they were laid out and presented, so it took me a while to --

JANET GREEN: To figure it out.

PATRICK TEDESCO: -- to kind of really figure it out. I didn't see a clean three-dimensional indication of how they would look. But I think after interpreting them, I don't think it's an insensitive adjustment. You know, the lantern may or may not be consistent with Queen Anne or Victorian style. You know, I don't think we're really prepared to comment on that. But I do think the dormer as proposed is, you know, just in a minimal way trying to

create headroom. And I think it could be a nice little space for --

BRENDAN SULLIVAN: It's funny all the years I've sat here and we approved little tweaks of this and that over the years, and then, you know, you fast forward 20, 25 years and then somebody like Mark Boyes-Watson comes down or another architect comes down, and said somebody 20 years ago did a terrible thing to this building, you know. And it's like these little, you know, so anyhow, I think --

PATRICK TEDESCO: Yeah, I think from the street, I don't think the dormer --

BRENDAN SULLIVAN: You're not really going to see it.

PATRICK TEDESCO: -- changes the massing.

BRENDAN SULLIVAN: It's not an element that belongs on the building, but anyhow.

CONSTANTINE ALEXANDER: And I share Patrick's confusion or problems with the plans. But an architect who

prepared these is still around.

PATRICK TEDESCO: Yeah, I don't know if it's a permutable set of drawings. I'll leave that to ISD. I finally understood.

CONSTANTINE ALEXANDER: Any comment?

PATRICK TEDESCO: I did read the testimony from the previous Board.

CONSTANTINE ALEXANDER: Oh, my goodness.

PATRICK TEDESCO: It was short and they were kind if you cared to follow the precedence of the predecessors.

CONSTANTINE ALEXANDER: Any further comments from Members of the Board at this point?

JANET GREEN: I'm good.

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

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We do have some letters of support. It's so basically a form letter where people filled in their names. Three letters. The letter reads: My name is, I'll fill in the blank in a second, and the neighbor to Ms. Susan Jung who resides at 16 Garfield Street, I'm writing to give my full support of her request to construct a dormer in her third floor unit at the above-mentioned address.

It's signed by the person who resides at 20 Garfield Street. I can't read the handwriting and there's no -- on the second person or the second letter, the same as the third letter. So I don't know where these people live, but they're all basically approval. They do approve.

I would note that this is a condo and the condo association apparently has approved, which is good.

PETER JAMES: Yes.

CONSTANTINE ALEXANDER: If you had a problem with that and that eliminates one potential problem in the

future.

So with that, I'll close public testimony.

Ready for a vote?

JANET GREEN: Yes.

CONSTANTINE ALEXANDER: Okay. The Chair moves that -- well, I'm a little short, that we make the following findings: Those findings being the findings that we made in 2001 since the proposal is identical to what was approved by our Board in 2001.

And that based on these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans, the first page of which have been initialled by the Chair, and which are identical to those that this Board reviewed in 2001 when we granted the Variance.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance

granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

PETER JAMES: Thank you very much.

* * * * *

(8:15 p.m.)

(Sitting Members Case No. BZA-013671-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013671, 45 Crescent Street.

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

RICHARD BROWN: Hello.

CONSTANTINE ALEXANDER: Good evening. As you can tell by now, give your name and address to the stenographer, please.

RICHARD BROWN: My name is Richard Brown. I'm an architect and my address is 50 Hillcrest Avenue, Lexington, Massachusetts.

ANDREW SMILES: And my name is Andrew smiles at 45

crescent Street, Cambridge. I've been there for 15 years.
I love it.

JANET GREEN: And if you can use the microphone.

RICHARD BROWN: Oh, I'm sorry. Yes.

We are proposing a dormer for the south side of 45 Crescent Street. The variances for FAR -- in that area the FAR is 0.75. Currently the building has an FAR of 0.76, and we wish to increase it by about 71 square feet with the dormer which would increase the FAR to 0.79.

The hardship is probably that this is a very dense area, so it's a very small lot. The lot is around 2300 square feet, and currently there is two good-sized bedrooms and one sort of closet size --

ANDREW SMILES: Closet size.

RICHARD BROWN: -- closet size bedroom. And so the dormer would increase it to essentially three full size bedrooms, which is necessary for the family.

ANDREW SMILES: Yeah. We have two children, nine

and five-years-old.

CONSTANTINE ALEXANDER: Although the effect of the dormer that we're granting, if I read your plans correctly, you're creating a larger bedroom for you and your wife with a master bath. So it's not like you're doing anything for the kids, you're doing it for yourself.

ANDREW SMILES: Well, we don't want to be on top of one another in the house pretty much.

RICHARD BROWN: The dormer will be totally within the required setbacks. It will stay as one unit. And I hope it is within the dormer guidelines. I tried hard.

We are not increasing the number of bedrooms, so we're not increasing the density.

There should be no impact to the neighbors in terms of light, noise, etcetera.

This is a dormer that's fairly common in that neighborhood, just a shed dormer. Originally we thought we were going to be totally within the FAR, and it got pointed

out to us by Sean that in 1984, or something like that, the garage became an accessory building which kicked it over the FAR and hence we are going for the Variance.

We have contacted all the neighbors and we have a list of several of them. So we have made an effort to really touch bases with all the neighbors.

CONSTANTINE ALEXANDER: Let's talk a little bit about the dormer guidelines. The dormer guidelines. I think -- I don't want to put words in your mouth, you're largely compliant with the dormer guidelines?

RICHARD BROWN: I hope I am fully compliant.

CONSTANTINE ALEXANDER: You're fully compliant.

The dimensions of the --

RICHARD BROWN: 15 feet.

CONSTANTINE ALEXANDER: That's the most -- at least for me the most important dimension.

RICHARD BROWN: 15 feet.

CONSTANTINE ALEXANDER: You dropped from the ridge

line?

RICHARD BROWN: From the ridge line.

CONSTANTINE ALEXANDER: You're coming down from
the ridge line?

RICHARD BROWN: We need that height.

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: No. You're at the ridge
line. Sorry (inaudible).

JANET GREEN: I thought he was at the ridge
line --

CONSTANTINE ALEXANDER: You're at the ridge line
which is --

JANET GREEN: -- and coming down and was away from
the side.

BRENDAN SULLIVAN: The former guidelines recommend
coming down a foot from the ridge.

CONSTANTINE ALEXANDER: Yeah.

BRENDAN SULLIVAN: Even though --

JANET GREEN: I thought they couldn't get the angle.

SEAN O'GRADY: No, he actually complies because he pulled back and pulled in. And if you pull back and pull in, then you don't have to pull down.

RICHARD BROWN: Right.

JANET GREEN: Oh.

RICHARD BROWN: We also complied with the more than 50 percent glass area.

CONSTANTINE ALEXANDER: Right.

RICHARD BROWN: And so my request is that we be allowed to add this 71 square feet of the dormer which is fairly common to that area.

CONSTANTINE ALEXANDER: Okay.

Comments or questions from Members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: I'll open the matter up to

public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of correspondence. We have a note from, again, I can't read people's handwriting, but we, Thomas Long, and -- I'm not going to be able to spell or pronounce the second name, of 48 Eustis Street, unit No. 5, have no issues with this proposal and support the proposed dormer addition behind us at 45 Crescent Street.

And there's a letter from Steve Imrich, I-M-R-I-C-H and Cynthia Smith who are neighbors at 37 Crescent Street. (Reading) We are writing a note of support for granting the Variance to add a dormer on the west side of the residence of Stephanie Mitchell and Andrew Smiles at 45 Crescent Street. The dormer seems to fit the vocabulary of the buildings in the neighborhood -- in the neighborhood

building and will make a substantial difference for their growing family. We're therefore in favor of Stephanie and Andrew's petition for this Variance. Please feel free to get in touch with us.

And then we have a petition that the petitioner has given us this evening. It's signed by I'd say 25 or so people. Various addresses that are listed.

(Reading) We, the neighbors of Stephanie Mitchell and Andrew Smiles have reviewed the drawings for their proposed dormer on the west side of their house at 45 Crescent Street and strongly support their application for a Variance. The addition will not increase the number of bedrooms to the house, will not increase the density of the neighborhood, will not increase the traffic, will not add any significant shadows, and will in general not have any negative effects on the neighborhood. In addition it will allow for their needed three reasonable size bedrooms.

And that's it.

Discussion or ready for a vote?

JANET GREEN: I'm ready.

ANDREA HICKEY: Ready.

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that the petitioner or any petitioner who lives in this structure, which is a relatively small structure, needs additional living space.

That the hardship is owing to the size of the lot, and I think it's also currently a non-conforming structure. Am I right? Therefore, any modification requires zoning relief.

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

In this regard the Chair would note that the project has unanimous support. It seems to -- apparently unanimous support of the neighborhood.

It is a modest change that's being requested in terms of the impact on our city.

Therefore, on the basis of these findings the Chair moves that we grant the Variance you requested on the condition, this is important for you, sir, that the work proceed in accordance with plans submitted by the petitioner, prepared by Richard Brown Architects, each page of which has been initialed by the Chair.

Just the point here being these have to be the final plans. If you modify them as you go forward, you're going to have to come back. So I want to make sure you're comfortable with that.

RICHARD BROWN: Yeah.

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

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Good
luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

* * * * *

(8:25 p.m.)

(Sitting Members Case No. BZA-013173-2017: Constantine
Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey,
Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case
No. 013173, 273 First Street.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. We are in receipt of a letter from the petitioner. (Reading) AT&T respectfully requests a continuance of its hearing for the referenced case before the BZA scheduled for 7:45 p.m. this evening. We would like to reschedule for August 24th or September 14th if the August date is full. Thank you.

This is a case not heard so we're free to pick a date that works.

SEAN O'GRADY: We can give them the 24th of August.

CONSTANTINE ALEXANDER: 24th of August? Okay. The Chair moves that we continue this case as a case not heard subject to seven p.m. on August 24th, subject to the following conditions:

JANET GREEN: August 24th. Okay, yeah, got it.

CONSTANTINE ALEXANDER: Got it?

First that the petitioner sign a waiver of time for a decision. Have they done that yet?

SEAN O'GRADY: Yeah.

CONSTANTINE ALEXANDER: They have. Second, that the posting sign be modified to reflect the new date, August 24th, and the new time, seven p.m. And that the sign be maintained for the 14 days prior to the new hearing date.

And lastly, to the extent that the petitioner's plans, dimensional information and the like are to be modified, they must be -- the modified documents must be in our files no later than five p.m. on the Monday before August 24th. That is to allow interested citizens of the city and this Board to review these plans in advance of the hearing.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

* * * * *

(8:25 p.m.)

(Sitting Members Case No. BZA-013690-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013690, 2551 Massachusetts Avenue.

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

Please come forward. Good evening, Mr. Hope.

ATTORNEY SEAN HOPE: You guys move very fast.

CONSTANTINE ALEXANDER: Not fast enough.

ATTORNEY SEAN HOPE: I hear you.

Good evening, Mr. Chairman, Members of the Board.

For the record, attorney Sean Hope, Hope Legal Offices in

Cambridge. I'm here tonight on behalf of the petitioner.

We have Mr. Scott Zinc. He is the manager of 2551 Mass. Avenue, LLC., owner of the property.

This is an application requesting Variance relief from the transitional front yard setback in Article 5, as well as to allow for bays in the front yard green area which is part of the Mass. Ave. Overlay District. This site was -- is in the Mass. Ave. Overlay District and it was also formerly part of the North Mass. Ave. Overlay District up to about a year and a half ago.

Briefly this site is just less than 5,000 square feet. It has two very large curb cuts. It was most recently used and approved as the Lapel's Dry Cleaning. It has a history of commercial uses. One of the challenges of the site is Jack's Gas is --

PETER QUINN: Sorry about that.

ATTORNEY SEAN HOPE: One of the challenges of the site that made it right for redevelopment is the two large

curb cuts and the adjacency to Jack's Gas. It was used --

CONSTANTINE ALEXANDER: Why the adjacency of Jack's Gas?

ATTORNEY SEAN HOPE: Well, yeah, so oftentimes it was used by people traveling down Mass. Ave. to either cut back onto Mass. Ave. or a cut-through going from Jack's Gas back onto North Mass. Ave. And because it was two very large curb cuts, you could actually park there, go to Jack's Gas, or you could even use it if you don't want to wait at the corner of Richard Ave, you could cut through and then get on Mass. Ave. So with these two large curb cuts it makes for a very precarious pedestrian streetscape. Part of the proposal was to close up those two large curb cuts and have a curb cut right on Richard Ave. That was part of this proposal and a previous proposal.

CONSTANTINE ALEXANDER: So there would be no access to the unit you're proposing to build from Mass. Ave. or it would just be to the side street?

ATTORNEY SEAN HOPE: So there would be townhouses so you'd have stoops to enter from the streetscape, but the cars would be accessed from Richard Ave.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: So additionally part of the -- one of the key factors for the Variance is that this lot is at the very end of the Mass. Overlay District, and so it's adjacent to a Res. B District.

CONSTANTINE ALEXANDER: Excuse me, I don't mean to interrupt you.

ATTORNEY SEAN HOPE: Yeah.

CONSTANTINE ALEXANDER: If any of you folks -- I think there are some people here who are interested in the petition. If you can't see this or can't hear, feel free to come forward.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Thank you. I'm hard of hearing.

ATTORNEY SEAN HOPE: So one of the impacts of the

adjacency of the Res. B District, their transitional setbacks creates a height setback. So when you have a business or an office district that's adjacent to a residential district, there is what's normally called a transitional buffer. So they say for the first 50 feet you have to have a height of 35 feet and then can you go up higher than that. Typically on Mass. Ave. those are -- the residential districts are usually east and west of Mass. Ave. So they are -- you have Mass. Ave., they are usually in the neighborhood behind. And so what that transitional setback does, it creates a buffer. So you have the neighborhood behind. You have 35 feet which pushes the density and the massing towards Mass. Ave. That is almost all throughout except for this part of Mass. Ave. and there's also a part in Porter Square where Res. B is on Mass. Ave. adjacent to the Lunder Art Center for Leslie University.

That is very unorthodox to have Res. B on North

Mass. Ave. So both in this case and in the Porter Square, these are left over zoning. The Zoning has developed Business A, Business C, the types of use -- it allows for the type of uses and density that you'd expect to see on Mass. Ave., but on this particular case, the zoning, the Mass. Ave. Overlay which gave a 1.75 FAR, heights of 50 feet, and also in this case formerly a required ground floor retail, was on Mass. Ave. but it was adjacent to Res. B. So one impact is this weird step up in height which normally should be from the east to west on Mass. Ave. But the other is this front yard setback.

Now, just briefly going into the procedural history. So in 2005 the petitioner purchased the property. Excuse me, 2015. And within months began to permit the process. To permit the property. There was a Planning Board Special Permit. And this -- the property was in the North Mass. Ave. Overlay District. So there was several meetings at the North Cambridge Stabilization, also meetings

in the neighborhood. The Planning Board, it was close to as of right, but we needed two Special Permits were specifically allowed within that section of the Ordinance for linear frontage and for ground floor retail.

We went to the Planning Board and there was strong objection from the neighborhood for a couple of different reasons. And this is what was in front of the Planning Board.

CONSTANTINE ALEXANDER: I was going to say it's not what I see in our files.

ATTORNEY SEAN HOPE: No, it's not. But this is just to give you some context.

So as you can see in this corner, because the Res. B is to the left of it, you have this very strange setback. Normally that should be facing the neighborhood, but it's on Mass. Ave. So that was part of the objection.

The other part of the objection was for ground floor retail. The Richard Ave. neighbors felt that that

site particularly was not connected to add that retail. That it wouldn't work for any type of retail or commercial use. And it also made the building much higher. Because you had ground floor retail and the parking at grade, all the residential units were above. So they objected to that.

At that time we were encouraged by neighborhood groups and by neighbors to come to the Board and seek a Use Variance. I counseled Scott at that time that this was recent zoning, that there were neighbors who worked on ground floor retail, and I didn't think that, especially with recent zoning, that the Board would be in position to grant a Use Variance when it was very clear what the Ordinance said and promoted that even if this was a challenging site. I also thought that it may be challenging now, but you look forward 10, 15 years, and there were also people in the neighborhood who supported that back then. So we took the approach of to go to the Planning Board and we started working toward a design.

In that process there was a downzoning filed. The downzone for this lot and the adjacent lot was to downzone it to Res. B. In our estimation this was a way to get Scott's attention and to be able to work out some compromise.

So we took that charge and we went to the -- after some back and forth, went back to the drawing board. We worked with a series of neighbors, mostly on Richard Ave. And you'll hear from some of them tonight. And so the compromise was to actually work to amend the zoning. It took several months. Councillor Carlone was instrumental in helping us to write the zoning, and what the result was, we actually removed that lot from the North Mass. Ave. Overlay also eliminating the ground floor retail requirement. That allowed us to bring the project down.

So the project you saw with the red brick building, that was a five-unit proposal with a ground floor retail at 50 feet. The project you see today, and what we

agreed to in a Memorandum of Understanding almost a year ago, was a four-unit project at 35 feet.

CONSTANTINE ALEXANDER: And no retail?

ATTORNEY SEAN HOPE: And no retail. Because we had --

CONSTANTINE ALEXANDER: I think you showed us that first picture just to see anything is going to be better than that. Therefore, we'll approve what you're going to give us tonight.

ATTORNEY SEAN HOPE: You share the sentiments of the neighbors. We actually thought it was a handsome building but the zoning --

CONSTANTINE ALEXANDER: No offense. Or you I should say.

ATTORNEY SEAN HOPE: Yeah, it was Peter's fault.

But the zoning did create a very awkward building. We understood that. And also the idea was a compromise was to create something that more met the residential

streetscape.

Throughout that process, and the application was reviewed by Community Development, by the zoning staff, the idea that these two Variances, one, that the front yard setback was going to be controlled by this transitional setback, which is one almost of a Variance, was frankly missed. I think it's very awkward for Res. B to be on Mass. Ave. and so we focussed on other elements. The base zoning district, the BA-2 specifically calls for a five-foot setback. The North Mass. Ave. study which really created the design for this stretch of Mass. Ave. also recommended a five-foot setback. So it was, it really was the fact that we missed that. So we drafted a four-unit building that you see in your file. There was a Memorandum of Understanding between Scott and the abutter to make sure that once you removed the North Mass. Ave. Overlay, you could do a much bigger building. So we had a Memorandum of Understanding --

CONSTANTINE ALEXANDER: We don't have it in our

file.

ATTORNEY SEAN HOPE: You don't have?

CONSTANTINE ALEXANDER: No. The Memorandum of Understanding.

ATTORNEY SEAN HOPE: I mean that was a year ago. That really wasn't a part of --

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: I'm just giving the Board the procedural history.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY SEAN HOPE: So the point was there was a lot of work to be done to get the formula of the proposal. There was a lot of neighborhood work, a lot of civic involvement, and I think we all felt -- most people in the neighborhood felt -- applauded the effort because really at that point it wasn't Scott's petition, it was really the neighbor's petition and we worked out -- also the bays were also an important part of the design to make sure it wasn't

a flat building. And the Mass. Ave. Overlay specifically exempted the GFA from the bays to allow to promote bays. One of the results was though that they never, there is a part in the Mass. Ave. Overlay that says all the green area between the principal wall plain and the street needs to be green. Well, we have green area. But it was the determination from my understanding if you have bay over, part of the definition is not open and unobstructed to the sky. So even though they are --

CONSTANTINE ALEXANDER: That's the second aspect.

ATTORNEY SEAN HOPE: That's the second aspect, but those two together -- exactly, open space.

And so interestingly enough, although there is not an open space requirement for this project, it's that green space area was still, was still part of it. But this was a collaboration working together. So, the building you see was really -- was part of a neighborhood process. So the building was agreed upon. Scott applied for a Building

Permit in November just in terms of the process of working through. And then only at the point where we were close to getting the Building Permit, ISD doing a thorough review, noticed that there was this transitional setback, applied it to this building, and so then we realized what we thought was an as-of-right building that the neighbors and the developer agreed upon, now had a Zoning Variance to be able to build a setback.

And I'm gonna let Peter talk about the impacts of this front yard setback. But one of the, the unfortunate parts is the ten-foot setback is not even the whole length of the parcel. It actually goes to two thirds. So what you could have a five-foot setback at the corner, then you would have to have a jog back in for another five feet, and then ten feet. And so it's because of the residential setback only applies for the first 50 feet. So it's a very odd application, that Res. B setback.

One other challenge that we're dealing with, this

is a shallow lot. And when I say shallow, not necessarily in comparison, but the Mass. Ave. Overlay -- excuse me, the North Mass. Ave. Overlay required ground floor retail. They required ground floor retail of a certain depth. They wanted it to be 40 feet in depth. Because of the depth of the site, we couldn't have the parking as well as that ground floor retail. Also, again, this depth of the lot is also creating a challenge with this new ten-foot setback. And I was going to, maybe, Pete, you can walk through the board on the implications of that front yard setback.

PETER QUINN: Sure. My name is Peter Quinn of Peter Quinn Architects in Davis Square.

I first wanted to show just very quickly a survey of neighboring buildings --

JANET GREEN: Can you hear?

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes, thank you.

PETER QUINN: Thank you. I'm sorry. Should I use

that?

CONSTANTINE ALEXANDER: Probably a good idea.

PETER QUINN: Okay, no problem.

We did a survey of buildings, mixed use multi-family buildings in the area, what kind of setbacks they have. And you'll recognize a lot of these buildings if you've driven up North Mass. Ave., but none of them are more than five feet except for some of those in the Res. B District. But all of the commercial buildings, all of the even, even some of the smaller, older buildings are zero, zero to two feet, three feet, four feet, in that area.

This is a blowup of our site. That's the Business A2 District. This is the Res. B over here.

What we're trying to show you here is that this is actually an office building. The first building is actually a professional office building. And that does have a setback of ten feet. So that controls our setback based on what Sean is describing tonight. That we would, we would

normally be 15 feet, but if the neighbor is 10, then we can be 10. So we have, we received an automatic reduction with that already. And then -- so that just gives you an idea or a juxtaposition here.

This gives you an idea of the impact. So the building, I think Sean may have said this, this building was tied to the Memorandum of Understanding. It was not okay, we've got the Memorandum, let's go design it. It was very specific that we were gonna design and develop a four-unit townhouse development, which is consistent with many of the goals of North Mass. Ave., but without the retail on the ground floor.

Also this allows to get parking in the rear, have these nice bays on the front and on the side.

CONSTANTINE ALEXANDER: Parking is not underground?

ATTORNEY SEAN HOPE: At grade.

PETER QUINN: You can see the first floor is

elevated and it's in the back. So you drive down Richard Ave. and turn left, there's a ten-foot curb cut. So all the curb cut is filled in, parking spaces are --

CONSTANTINE ALEXANDER: And the distance to the presumably residential property that your neighbor on Richard Street, you comply with the zoning?

PETER QUINN: Yes.

ATTORNEY SEAN HOPE: So, the actual abutting parcel is also BA-2 and so --

PETER QUINN: Most of it is, yeah.

ATTORNEY SEAN HOPE: Most of it is. Usually the business goes back at least 100 feet. So our parcel is only 55 feet. And they do that so you have that buffer. So they're Business A-2, but the one to the left on Mass. Ave. is the one that's Res. B.

CONSTANTINE ALEXANDER: Right.

PETER QUINN: And ironically that's actually a three-unit apartment building, and it's in business but this

office building is Res. B so it goes. Anyways.

Finally getting back to this. So if we are not able to receive a Variance, we would need to push the building back very substantially, and we would also lose the bays. Even the bays beyond the five-foot, beyond the ten-foot setback because of this green space issue. So all of these bays would be gone, and this thing would all be flattened out. And I mean it would, we just have a completely different building actually.

And the other thing that we tried to achieve with this is to try to get a three-bedroom design. So we actually created a townhome for families. It actually worked quite well with this layout. I think pushing this back, having to reassemble the stairway in different locations, we're probably gonna lose that third bedroom and it would be very, very hard. Or if we have one, it would be tiny more like a study.

CONSTANTINE ALEXANDER: So each of these four

units are going to be three bedroom?

PETER QUINN: So as it is now all four are three bedrooms.

CONSTANTINE ALEXANDER: Yeah.

PETER QUINN: So these two fully would be pushed back. And this one, you know, kind of oddly is, you know, in the middle of the doorway. And then, you know, so that, that one will have similar problem that these other two have. So I would say three of them would probably be greatly affected by that.

CONSTANTINE ALEXANDER: Well, to me that's a significant issue -- not issue, benefit of what you're proposing. I think there is a recognized need for three-bedroom rental units or even condos.

PETER QUINN: Yeah.

CONSTANTINE ALEXANDER: And your design, if we grant you the relief you're seeking, would allow that and you would lose some of those if we don't.

PETER QUINN: That is correct. Yeah.

BRENDAN SULLIVAN: These units rental or for sale?

SCOTT ZINC: Mostly for sale.

Scott Zinc. I'm sorry. Building owner.

CONSTANTINE ALEXANDER: Okay.

PETER QUINN: I also just wanted to acknowledge Councillor Carlone's assistance in getting this approved. We got a lot of encouragement through the architectural design process with the neighbors on that. So it would be a shame to lose all of that input.

CONSTANTINE ALEXANDER: Thank you.

Anything else you wanted to say at this point?

ATTORNEY SEAN HOPE: Not at this point.

CONSTANTINE ALEXANDER: Any questions or comments from Members of the Board at this point?

ANDREA HICKEY: Do you have handouts that are something different than your board?

PETER QUINN: No, I have the boards.

ANDREA HICKEY: Okay.

PETER QUINN: Yeah, you're more than welcome if you want to see those.

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

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

UNIDENTIFIED MEMBER FROM THE AUDIENCE: Yes, you want to present the signatures first?

CONSTANTINE ALEXANDER: Give your name and address to the stenographer.

SARAH BELL: Hi. My name is Sarah Bell. Live at 19 Muller Ave. I've lived in the neighborhood for 24 years. And we have a petition of 15 people on Richard Ave., Muller Ave., and Churchill Ave. who support this Variance for the developer.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down. We'll take that copy of the

petition.

UNIDENTIFIED MEMBER FROM THE AUDIENCE: And she worked hard to get the signatures on it.

SARAH BELL: I'm afraid I did just one copy.

CONSTANTINE ALEXANDER: Okay.

SARAH BELL: Thank you very much.

CONSTANTINE ALEXANDER: Thank you.

Ma'am, did you want to speak?

ELIZABETH STERN: Yes.

CONSTANTINE ALEXANDER: You can sit there. Give your name and address.

ELIZABETH STERN: I'm Elizabeth Stern. I'm the abutter at Seven Richard Avenue. I strongly support the granting of the Variance to allow five-foot setback. Over the past two years as Sean has described to you in detail, we in the neighborhood have worked hard with the developer of 2551, with his attorney Sean, and with various city agencies to achieve a development appropriate to the

residential neighborhood it abuts. To this end after much consideration of pros and cons, the necessary agencies in the city agreed to pull back the overlay Mass. Avenue zoning to the middle of Richard Ave., thereby eliminating the requirement for retail in the 2551 development which was too small for it anyway. The developer in the neighborhood signed a Memorandum of Understanding that the building would consist of 35 feet high townhouses, same height as abutting buildings, with parking behind and access to the parking from Richard Avenue. There is a strong residential feel to the design, including siding, bay windows on Mass. Avenue and on Richard Avenue, and the setback was agreed upon as five feet. My first argument for allowing the Variance is that all the work, all the people involved at achieving this MOU would be negated were it not allowed. We will be starting over again from scratch at great expense and frustration to all. My second argument for allowing the Variance is that it would actually promote the residential

character of the neighborhood rather than work to its detriment. And this was after all the purpose of the zoning, to work to the -- to help the transition. The reason is that with this Variance, three-bedroom townhouses can be built. Cambridge needs housing, and especially housing that can accommodate families. If, as the loophole allows, it becomes a ten-foot setback without bay windows, it probably loses a third bedroom and definitely loses the residential character of overhanging bay windows. In exchange for that, the neighborhood would get five more feet of open space, hopefully kept green. I would argue that the better bargain for residential transition is accomplished by granting a Variance for a five-foot setback, allowing the bay windows to overhang within that five feet and adding family-oriented units.

Thank you.

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

Anyone else wishes to be heard? Sir. You mind coming forward so we can hear you better and everybody else, too. Use the mic if you would. And start with your name and address for the benefit of the stenographer.

ADAM ROBERTS: Adam Roberts. I own 2557 which is the building next-door which is zoned residential but IS used as an office building. And I live at 202 Charles. I have to echo what all the neighbors have said about the developer really coming to something which the neighborhood likes much better than what was there before despite it having less total square feet. I think I like the building that they came to much better than the building that was there before and I commend the developer for being flexible on that. I guess I have some concerns and I'm hoping that we could have a little bit more time to work out the remaining concerns with the neighborhood before going on with this. I really want to see this building built. I have some concerns I think in the agreement which has been

brought up many times and for good reason, because a lot of work went into that agreement. We all agreed to five-foot setbacks. I think agreeing to five-foot setbacks when you think the requirement is five feet is different than agreeing to five-foot setbacks when you know of this ten-foot requirement and I'm not sure that the neighborhood would have agreed to five-foot setbacks if we had known of this Ordinance. And I, you know, as the neighbor on that side a slightly smaller building, less mass does sound nice to me. We have been in discussions with the developer. We're close to an agreement that would alleviate some of my concerns. I just wish we could have a little bit more time to finish it and then I would also be in support.

CONSTANTINE ALEXANDER: Okay. I would just point out that should we grant relief tonight, it will be tied to this -- what you're seeing tonight. So to the extent that you would want to work out more -- some modifications, if -- assuming that you did -- were able to work that out,

the petitioner would have to come back before us and get the modified plans approved. So I don't know what their views are on this. This thing has been apparently been going on for years and years and years. And although there are reasons for that. I for one am very reluctant at this point given all that I've heard, to continue the case to allow you to have further discussions. Before I ask other Members of the Board, what's your view on that?

ATTORNEY SEAN HOPE: So Adam Roberts.

Mr. Roberts, from my understanding I think it's -- our understanding is that his concerns have nothing to do with the building. He's a direct abutter.

CONSTANTINE ALEXANDER: I don't want to get into he said she said. Are you amenable to continuing the case?

ATTORNEY SEAN HOPE: No.

CONSTANTINE ALEXANDER: Okay. Okay, rather than -- we don't need anything more than that.

Thank you.

Anyone -- sir.

COUNCILLOR DENNIS CARLONE: Hi. Dennis Carlone, Nine Washington Avenue, No. 6. I, as the head of the Ordinance Committee, oversaw the discussions that you heard, and I was very pleased that the Ordinance Committee and later the City Council voted unanimously, first the regroup and then to approve the zoning. In fact, many of the Councillors were quite taken with the building and said how handsome it was. My point is that the process worked pretty dramatically and there was, although it was discussed, there was confrontation and concern about the first building and Mr. Zinc obviously wanted to move forward. The architect changed the scheme dramatically and came up with what I think is a very Cambridge feel building, hopefully not grey and white, but we'll talk about that afterwards. But this is exactly how the process should work where if there's conflict, there can be a resolution. And we all thought it would work. Adam didn't mention it, but there's an easement

issue on the property line between him and the building on -- on the proposed building on Mass. Avenue. And I was told that the proponents of the Variance will indeed work on that with him and conclude that. And I'm saying that for Adam as well, that that's my understanding, and I will help make that happen if need be. I fully believe it. So the process has really been an example of how buildings can fit in on really tough sites. And I just salute everybody who's spoken tonight on the process. So I hope you do approve it. I wish you could say with the condition, but I know the Board can't relate it to the property line easement, but I think that will be worked out and I will try to make that happen.

Thank you.

CONSTANTINE ALEXANDER: Thank you, Mr. Carlone.

Appreciate you coming down.

Before I take any other testimony, is there any sentiment on the Board that we should continue this case?

It would be a case heard of course.

ANDREA HICKEY: No.

CONSTANTINE ALEXANDER: I don't have any.

JANET GREEN: I don't think.

CONSTANTINE ALEXANDER: So we're not going to continue the case. We're going to go forward with a decision this evening.

Mr. Brandon.

MICHAEL BRANDON: Thank you, Mr. Chair, I'm Michael Brandon, B-R-A-N-D-O-N. I live at 27 Seven Pines Avenue, and I'm the clerk for the North Cambridge Stabilization Committee, which is the neighborhood association.

We've been in discussions with Scott and Sean and Peter from the beginning, since Sean -- Scott bought the property, proposed the original building. We commented on it, gave them some feedback, attended the Planning Board which agreed with the neighborhood that that original

proposal was completely inappropriate. And we've been involved as a small group of neighbors near the site, including the three who addressed you tonight, and negotiated this compromise and we supported the rezoning to allow it to be, have no commercial space, only be 35 feet high, be full residential units.

As Adam Roberts said, people were not aware until we came and it was reviewed by ISD that indeed there's a setback violation, and technically at least an open space violation. So as he said, you know, had that been known, things might have developed differently.

Given the current situation we had another presentation by Scott and his site manager, and our group discussed it afterwards. And what we decided, although a fair number of concerns were raised, that we feel have not been addressed, and some of them are in the MOU which if you were to continue the case, I would suggest the Board should review that and, you know, see what was discussed.

Councillor Carlone mentioned the color scheme.

Well, part of the agreement, the MOU that was reached, was that Scott would consult with the Historical Commission about what might be appropriate at that site. Now, maybe the grey and white wood, maybe there will be other suggestions that would be more appropriate. But just as the neighbors convinced him to break down the height to match what's around there rather than tower over what's in a residential zone on two sides, three sides across the street, too, so that was, it hasn't been followed through on yet.

There were other changes in the plans that were tied to the MOU and the rezoning such as there are now planned air conditioner condensers on the rooftop that there are assurances that they won't be a noise problem. But I don't know, perhaps a baffling or screening.

CONSTANTINE ALEXANDER: Those are not relevant to our determination tonight.

MICHAEL BRANDON: Okay. I'm sorry to get too much into the weeds but, you know, it's a long history.

So, what we ultimately decided to do was because the abutters and -- well, parties in interest, the folks who have spoken, were so involved and worked so hard, that stabilization committee voted to oppose the Variance unless the parties in interest were satisfied with the current scheme and raised no objections. Now --

CONSTANTINE ALEXANDER: I assume you communicated this to Mr. Hope and his clients and they decided --

MICHAEL BRANDON: Yeah.

CONSTANTINE ALEXANDER: And they decided to come down?

MICHAEL BRANDON: I notified them of what our vote was and I understand that they've been in discussions about easement issues at least, and I'm not sure what other issue -- I know parking is an issue, and adequacy of parking.

CONSTANTINE ALEXANDER: Mr. Hope has already advised us and his clients --

MICHAEL BRANDON: I'm sorry?

CONSTANTINE ALEXANDER: Mr. Hope and --

MICHAEL BRANDON: Well, he might want to reconsider --

CONSTANTINE ALEXANDER: I'm going to give him the opportunity, don't worry about it.

MICHAEL BRANDON: I hope he will. Well, because my sense is, and again, I'm not party to the discussions, but my sense is that they are very close on reaching an -- you know, an agreement. And I think from Mr. Roberts' point of view, all the meetings, his issue as opposed to some of the other folks who were concerned about height, because it's only going to be 35 feet by him. His issue was parking and whether his tenants in the professional offices have adequate parking.

So there was a switch also from two bedrooms to

three which --

CONSTANTINE ALEXANDER: Let's cut to the chase,
Mr. Brandon.

MICHAEL BRANDON: Okay. So the chase is what we
are asking is --

CONSTANTINE ALEXANDER: Understood.

MICHAEL BRANDON: -- that you try to encourage
them to come back. You know, could probably be at your next
meeting or the one after that. And if not, that you deny
it, I could go into the reasons why, you know, the legal
arguments about whether a Variance is justified and whether
the position of the lot and the zone is of note. So that's
it.

CONSTANTINE ALEXANDER: Okay. All right.

Mr. Hope, what's you and your client's position on
this as well?

ATTORNEY SEAN HOPE: So I'd like to reiterate that
we're not interested in a continuance. I would have to say

that the characterization of the Memorandum of Understanding and the deviations, I think, is inaccurate. I would say on the record, we're going to abide by the Memorandum of Understanding. The direct abutters, one of which was Ms. Elizabeth Stern fully supported the Variance. The other abutter, I think there are issues that the Board has said is not germane and we don't see it's appropriate. So fully transparent that we're going to abide by the Memorandum of Understanding. I just would like to also touch on the fact that this is an awkward zone. It is a shallow lot. And I do think that the -- if we were to, if you were to adhere to the Zoning Ordinance and you have this ten-foot and five-foot setback, it would be a loss of three-bedroom units. I do think that it would also be --

CONSTANTINE ALEXANDER: Point's been made already.

ATTORNEY SEAN HOPE: Okay, yeah.

CONSTANTINE ALEXANDER: Thank you. Thank you for the message.

I'll ask my fellow Board Members, is there any sentiment for continuing this case as a case heard? Of course it would be. I for one have no interest in continuing the case.

JANET GREEN: I don't think we need to continue this case.

CONSTANTINE ALEXANDER: Anyone else feel differently? I guess not.

Okay, Mr. Brandon, we're not going to continue the case. I will give you some time, not a lot of time, to talk to the zoning issues as to specifically why you believe we should not grant the Variances being requested if you want. It's up to you.

MICHAEL BRANDON: Well, I'll --

CONSTANTINE ALEXANDER: Get the mic, please, so everybody can hear you.

MICHAEL BRANDON: I appreciate you allowing me to elaborate some. And I don't have a copy of the application

handy, but as I understand it, Mr. Hope is arguing that the substantial hardship is that this is a small lot, smaller than most lots that go back, and I don't think I have to explain why that's not legal hardship certainly to the attorneys and experienced members of this Board.

He also cites that it abuts the residential zone on two sides and that's the whole purpose of the transitional requirements where you have a zone that's residential zone, abutted by a commercial zone the dimensional requirements are changed. Why, you know, the architect realized that oh, well, there's a height requirement. In the next paragraph there's a front yard setback requirement. So that's the whole purpose of the Ordinance having a transitional zone.

He mentioned that there's another lot in Porter Square or several lots, I don't know, but that would negate this whole idea of the Variance is supposed to be specific to a parcel that distinguishes it from all the others in the

district. So it kind of undermines his own argument.

I think it derogates from the intent of the Ordinance as the Ordinance is written. Now it may be that nobody envisioned that this kind of a situation could come up, but then the solution is to do what was done in the case of the commercial requirement that couldn't feasibly or acceptably build a unit, build original project and came back and did what this Board has done in other instances and saying hey, you know, a Variance, you have to qualify for. And if you can't, you can go and have -- ask the City Council to rezone. So they did that once and they could do it again. Ideally they reconsider and, you know, rather than risk this Board denying it or risk the unsatisfied abutter from pursuing your decision if it's adverse to his interest, you know, ideally they postpone, work out whatever the issues are. As I say, I think I hear both sides saying that they're close on it. But once you grant it, you know, that kind of leaves the possibility of all the good work to

get to where we are where we're almost there, because, you know, Board Members and I, you know, don't want to see a vacant lot there. The old building has been knocked down. There are have been some on-site investigations of the tanks that were removed and there were some leaks in the past, but that seems to be under control. So ideally the neighbors can work it out. We would withdraw our objection. So that's basically it.

Thank you.

BRENDAN SULLIVAN: But if we were to grant it, I think what you're saying as a fait accomplis and that's not so, because the abutter, if they were not able to reach satisfactory agreement between them, the abutter has standing or presumed standing.

MICHAEL BRANDON: Right.

BRENDAN SULLIVAN: At which point he could contest it. I think it behooves the people at the table to work out an agreement. Otherwise they could be dead in the water.

MICHAEL BRANDON: Yeah, I agree. I mean, you know, I guess it's just a question -- and thanks for pointing that out. But I think it's a question of, you know, what cart goes before what horse, and --

BRENDAN SULLIVAN: Well, I think the idea is to get the cart moving.

MICHAEL BRANDON: Yeah, although it kind of puts, you know, who's driving it. It switches who's driving the cart.

CONSTANTINE ALEXANDER: You made your point, Mr. Brandon. I don't mean to cut you off but --

MICHAEL BRANDON: Thank you very much.

CONSTANTINE ALEXANDER: Anyone else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not.

We are in receipt of a petition in support of the Variance being requested signed by 16 individuals.

We also are in receipt of a letter from Elizabeth Stern, a different letter. The letter expresses points you didn't make in your own presentation. But I ask I forego reading your other letter?

ELIZABETH STERN: Oh, yeah. That was for you.

CONSTANTINE ALEXANDER: Thank you.

I will close public testimony.

Any further comments, Mr. Hope?

ATTORNEY SEAN HOPE: Just briefly.

I think one of the things is the Mass. Ave. Overlay District as well as the North Mass. Ave. study really talks about connecting streetscapes. One of the things that the townhouse concept does, it activates the streetscapes in a way in which that a ten-yard -- a ten-foot setback wouldn't do.

The second thing is, although there is another section along all of Mass. Ave. in the city, but does have a Res. B, it is the exception. It is very rare. So I think

the idea that there is another Res. B on Mass. Ave. doesn't move it away from the idea that this is a unique case. Most of Mass. Ave. is either some type of business or some type of office use, but very rarely do you have on Mass. Ave. a Res. B. In North Cambridge at that last stretch as you go towards Arlington, that is all Mass. Ave. The majority of Mass. Ave. has been rezoned through neighborhood study such as this North Mass. Ave.

Additionally, the Ordinance calls for the most rational use of land. And I think when you have an opportunity to be able to meet the streetscape to be consistent with really the intent and purposes of this specific overlay district, I would feel that that transitional setback, although it applies citywide, is really at odds. And I think you saw that in the design for height, and I think you also see that, that that 50 feet cuts the lot into two thirds. So I do think, although the transitional setback is there, it applies citywide, I think

it is at odds with the Mass. Ave. Overlay District which is specifically designed for this portion of Mass. Ave. So I would say that it really the shape of the lot and that it's not very deep, which also means that if you had a ten-foot setback, you're pushing the massing closer to towards the residential which is not one of the intent and purposes of having this transitional setback. I think it's uniquely odd and it creates an unorthodox building, but I also do think that three-bedroom requirement which the Chair picked up on is significant. It's significant because it does allow for family units. And not that it's impossible to have a three bedroom, but it really would impair the quality of that three bedroom. So I think three bedrooms in name only don't necessarily serve family units. But I think if you have quality three-bedroom units, which this building does provide, is significant. And I think it does further the intent of the Ordinance and I would say that the, that the project overall is inconsistent with the intent and purpose

not just of the Ordinance but of the Mass. Ave. Overlay District and the North Mass. Ave. study which created the five-foot setback, and I believe intended to apply all the way through. And if you look at the North Mass. Ave. study, it does take this area calling it No. 6, planning No. 6, and specifically it did change the base zoning to this five-foot setback and that's what we are building towards.

CONSTANTINE ALEXANDER: Thank you.

I will close all public testimony at this point.

Board Members, do you want to discuss this, do you want to go for a vote?

PATRICK TEDESCO: I'm ready for a vote. I would just say that this is a perfect example of why this Board exists where good urban design and logical planning overcomes what is the realities of an occasionally arbitrary and unfortunate relationship between different districts. And I think the intent of the Mass. Ave. Overlay District was about protecting the neighborhoods on each side. And

the fact that it abuts the district on Mass. Ave. is just one of those conditions of zoning. So I think it's very well presented and, you know, I applaud the design team for working with the community in what makes perfect sense to me.

CONSTANTINE ALEXANDER: Thank you. Good comments.

Anyone else?

JANET GREEN: I agree with Patrick completely.

CONSTANTINE ALEXANDER: Ready for a vote?

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship would be that it would require redesign of a building that has been worked on by the developer, City Councillor Mr. Carlone in particular, and the neighborhood over a number of years so that it would prevent a project that would appear to have good aesthetics and supportive of

the neighborhood, it would cause it not to go forward.

The hardship is owing to the nature of the lot. It is a relatively small lot for this district, and it is sort of uniquely located within the district and the overlay district that creates these problems that are -- we're dealing with tonight.

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

Again, the Chair would note that this project has -- is a result of many years of work by various constituencies within the city, all of which have come to agree on a plan that is not universally approved. Obviously we've heard expressions of concern, so that they're not -- they've been characterized as minor in nature. Not minor, but not, that they can be worked out. But the petitioner I think is ready to go forward with the project. So if they get relief from us and I assume, but this is not

part of our decision, that they will be reasonable in having further discussions with the abutter and the North Cambridge Neighborhood -- North Cambridge Neighborhood Association?

MICHAEL BRANDON: North Cambridge Stabilization.

CONSTANTINE ALEXANDER: Stabilization. Thank you.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans by Peter Quinn Architects. The date of them appears to be June 20, 2017. The first page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

* * * * *

(9:20 p.m.)

(Sitting Members Case No. BZA-013707-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013707, 72 Spring Street.

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

Hello. You know by now, name and address.

DANIELLE MISHKIN: Yeah. My name is Danielle
Mishkin M-I-S-H-K-I-N, 72 Spring Street.

RASHMI RAMASWAMY: Rashmi Ramaswamy. Studio
architect, 113 Hampshire Street.

CONSTANTINE ALEXANDER: Spell that.

RASHMI RAMASWAMY: R-A-S-H-M-I. And last name is
R-A-M-A-S-W-A-M-Y.

JOE ROSE: Mine will be easy. Joe Rose, 72 Spring
Street.

CONSTANTINE ALEXANDER: Now, before we start your
presentation. As I understand it, the dimensional form that
we have needed to be corrected.

JOE ROSE: Correct.

RASHMI RAMASWAMY: So that's a full package.

CONSTANTINE ALEXANDER: Full package. And it
includes the dimensional form?

RASHMI RAMASWAMY: Yeah.

CONSTANTINE ALEXANDER: Let me explain to the Members of the Board -- maybe let me ask you to explain something. To what extent does this dimensional form differ from what was filed before?

RASHMI RAMASWAMY: So the dimensional form that was filed before included just the dormer and the FAR calculations, but we have subsequently included the first floor stair that's under the --

CONSTANTINE ALEXANDER: Okay. So actually the FAR relief you're requesting is actually a little greater than what we saw before?

RASHMI RAMASWAMY: Yeah.

CONSTANTINE ALEXANDER: And let me just turn to my Board, typically and maybe for your benefit, typically we require that the dimensional form, the final one, be in our files by than no later than five p.m. on the Monday before our hearing. If we don't have it, we don't hear the case. I would suggest to my fellow Board Members, although I

would -- obviously have their own point of view, is that the relief, the modification is very minor. It's not essential to the case, and it would be a shame, I think, to continue this case. These folks have been here all evening. So I would suggest that we proceed with the case.

Does anyone feel differently? No. Okay.

RASHMI RAMASWAMY: Thank you.

I just to know I flew all the way back from Chicago from my family vacation so I'm very glad you didn't continue us.

So can you hear me? So I just like to invite Danielle to say a little bit about who they are and why they're in the neighborhood and then I'll get into the technical aspects.

DANIELLE MISHKIN: So my husband and I have lived in the house for many years. My husband is actually the third generation that has lived in the house.

CONSTANTINE ALEXANDER: Really?

DANIELLE MISHKIN: We cared for his grandmother who was there. His father was raised and lived there. So we hope to stay there many years and possibly have a fourth generation there, too. We have discussed our proposal with our neighbors. We're at the end of a four house row house and all of them support our plans.

CONSTANTINE ALEXANDER: Okay.

RASHMI RAMASWAMY: Thank you, Danielle.

So we have two items that they're seeking relief for. The first is a setback encroachment issue, and the second is a FAR exceeding issue.

CONSTANTINE ALEXANDER: If I can just ask. Maybe tell us, tell the Board exactly what it is you're doing --

RASHMI RAMASWAMY: Okay.

CONSTANTINE ALEXANDER: -- and then go into the legal issues.

RASHMI RAMASWAMY: Sure.

So the next thing is -- that I was going to say.

Thank you for segueing into that, is that the project consists of two parts: One is the construction of a new egress stair from the second floor. Currently the means of egress from the second floor is just using an egress window. So we are putting in a sliding door and a new egress stair. And the egress from the first floor is deteriorating currently. So we're just redoing the whole stair that has a lining on the second floor and then loops back and picks up the stair on the first floor. So the whole stair is new. So that encroaches into the setback. That's item No. 1.

And item No. 2 is we -- there is currently a doghouse dormer on the third floor and doesn't really do a lot to make the space habitable. So although technically there is a dormer. So the adjacent -- it's part of four townhomes and all the abutting townhome residents have just a regular dormer. So we're proposing to put in a gable dormer that meets the Ordinance requirements for dormers. So broad strokes, those are the two items.

The hardships are that the egress issues are self-explanatory as to why it's a hardship. And the dormer issue, you know, technically it is a bedroom but it doesn't function very well as a bedroom. I could probably fit in it, but Danielle is much taller than me. So it's hard to make it habitable. There are -- and the bathroom currently there's -- so there's -- it's a two-family residence. The first floor is intended to be rented to somebody else. And the existing bathroom on the second floor, this is just on the second floor. So the bedroom to be on the third floor requires a lot of running back and forth, and it's not a comfortable space by any means. So we are not changing any of the occupancies. We're sort of taking the doghouse dormer and stretching it so that it's 15 feet. We are meeting the setback for the dormer. We are meeting the front wall setback, 15 inches. We are meeting the side wall setback.

And then we are, similar to the project you heard

earlier, we're doing the ridge connection at the existing ridge level because we checked the other two boxes.

And then similar to the second project, we are -- window area is -- slightly exceeds the 50 percent of the front wall area of the pediment. And we have double hung windows that match the double hung windows in the remainder of the building. Our siding -- so the one I gave you is a black and white. But the one we sent before had some colored renderings on it. And the intention is to basically match the character of the building and make it seem like it was always there.

The one thing to point out is the dormers a rear dormer, so hardly anybody is gonna see it. Except for some neighbors to the rear and some neighbors next-door, but if you look at the rendering, you'll see that the proposed dormer is a lot more attractive than a doghouse dormer. So those are the technical aspects of the dormer. And then the technical aspects of the stair are that the stair, if you

look at my zoning summary sheet from the front page, you'll see that we have ensured that the proposed stair stays with them, you know, the edge of the building, so it's not jetting out passed that point. But there's physically no room to, you know, make it work and pick up that first floor stair if we don't end up in the setback, because otherwise we would have to do a very long stair that extends into the backyard and there's an existing landscaping and it just doesn't seem practical to do that. So we have a code compliant fairly minimal stair there. We have a small deck up on the second floor which is pretty small. It's only seven-foot, six inches wide. And part of why we have it there is so that we don't take off the stair from the middle of the bays. We're just making it what seems sensible there. I can keep talking, but if you have any questions, I'm happy to --

CONSTANTINE ALEXANDER: You don't have to.

JOE ROSE: I'm good. We also followed the dormer

guidelines.

RASHMI RAMASWAMY: We followed the dormer guidelines. I think we checked all of the boxes.

CONSTANTINE ALEXANDER: Thank you. Comments or questions from Members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I'll open the matter up to public testimony.

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

HEATHER HOFFMAN: Hi. Heather Hoffman, 213 Hurley Street, and I am one of the legal abutters which is why I'm here. I completely understand the issues of low ceilings and not very big floor plates and all of that, and I'm here to support you on that. The only issue I have in fact, I actually heard the word when you were speaking and that is deck. One of the things that I've seen happen over and over in the neighborhood is things that are built as egress

stairs and there's just a tiny landing, except that the tiny landing is a deck. And so I can't see this. The Valucci's (phonetic) house completely blocks our mutual view of each other, but it's -- it is something that -- I mean, I think that our Ordinance considers decks to be something different from egress stairs. And I understand, you know, it's at the second floor level and all of that, but I just wanted to point it out. And although it won't bother me, it may well bother your neighbors if that's where you go to have your, you know, loud conversations late at night. Because as you know, the neighborhood is quiet at night, and I have actually gone and pointed out to people who were sitting on the roof across the street from me that they probably didn't know how far they could be heard. So it's purely a matter of just being, you know, respectful to the neighbors that I hope this won't turn into a place that, you know, becomes a nuisance. And that's my only comment on it. And other than that, please bring on the fourth generation.

CONSTANTINE ALEXANDER: I mean there's no way if you're going to do the stairs, you need to have a little bit of a deck to get in the second floor.

RASHMI RAMASWAMY: I want to thank Heather for her comment. You're right. This will, we did think a little bit about that. Although this won't solve the acoustical issue, we do have a privacy screen, because we were aware that even though it's a very small deck, and most of which is really landing, that neighbors might not want to look in and see what's going on. So to the extent that we could be respectful of being a good neighbor, we tried to be cognizant and address that.

CONSTANTINE ALEXANDER: Thank you.

Anyone else wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I will close public testimony.

We have a letter -- I'm sorry, we do have a letter

from City Councillor Timothy J. Toomey, Jr. (Reading) I am writing to lend my support for BZA case such and such, submitted by Joseph Rose and Danielle Mishkin to construct a dormer to back side of the attic that exceeds allowable FAR, and to construct an egress area, stairs and door, partially within the side yard setback. I have not heard of any opposition and I support the reference that improving their home to better accommodate their needs. I hope you will find favor with this application and thank you for taking my comments under consideration.

And I think that's it. I'm pretty sure -- that's it. No other comments. So I'm going to close public testimony.

Discussion or ready for a vote?

JANET GREEN: I'm ready.

ANDREA HICKEY: Ready.

CONSTANTINE ALEXANDER: Everybody's ready. Okay.

The Chair moves that this Board make the following

findings -- before I do that. Just because you've not appeared much before our Board. If we grant relief, I think we're on the road to do that, we tie it to these plans. These have to be the final plans. If you modify them going forward, you're going to have to come back down.

RASHMI RAMASWAMY: Okay.

CONSTANTINE ALEXANDER: So as long as you're comfortable these are the final ones.

All right, now, the Chair moves that we make the following findings with regard to the Variances being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that given the nature of this townhouse development and the additional living space is required for whoever occupies it, and certainly better stairs to get egress to the second floor unit is desirable and probably improves the safety of the occupants of the building.

That the hardship is owing to the fact that this is a non-conforming lot, and in a townhouse development through any modification requires zoning relief.

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

In this regard the relief being sought is rather modest. There is a need for it, and there is apparently no neighborhood opposition.

So on the basis of all these findings, the Chair moves that we grant the Variances being sought on the condition that the work proceed in accordance with the plans prepared by Shed Studio. And they apparently, I think they're dated --

RASHMI RAMASWAMY: 7/27.

CONSTANTINE ALEXANDER: What's the date?

RASHMI RAMASWAMY: Today's date, 7/27.

CONSTANTINE ALEXANDER: Today? Not this one.

RASHMI RAMASWAMY: The one below is 7/24.

CONSTANTINE ALEXANDER: Oh, yeah, the revised.

Thank you.

All of which has been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

CONSTANTINE ALEXANDER: Good luck.

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(9:35 p.m.)

(Sitting Members Case No. BZA-013691-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013691, 346 Washington Street.

Is there anyone here wishing to be heard on this

matter? As you know by now, name and address to the stenographer, please, and use the microphone to speak.

STEPHEN GREENFIELD: Stephen Greenfield with a P-H S-T-E-P-H-E-N Greenfield, 346 Washington.

MICHELLE AUER: Michelle Auer. I'm the architect. Do you need my address?

CONSTANTINE ALEXANDER: Say it again, please?

MICHELLE AUER: You need my address?

STEPHEN GREENFIELD: She's the architect.

MICHELLE AUER: I'm an architect.

CONSTANTINE ALEXANDER: The architect okay, yeah.

STEPHEN GREENFIELD: I'll give just a background first?

MICHELLE AUER: Yeah.

STEPHEN GREENFIELD: I'll give just a very quick bit of context and then the architect will go into the detail.

My wife and I closed on the house about a year

ago, and we -- the basic reason we're here is for a stairwell. We're trying to get a rear egress.

Maybe you should explain a little bit on that.

MICHELLE AUER: Sure.

So just for the background of the project. It's a mansard Victorian and it's built in the 1980s on Washington Street.

JANET GREEN: I'm sorry, it's hard to hear you.

CONSTANTINE ALEXANDER: Yes.

MICHELLE AUER: Okay, I'll try again. So the house is on Washington Street between Norfolk and it's in the C-1 District. It's on a portion of the Washington Street with a lot of houses of similar character. It was originally built as a single-family, but it's been used according to our research as a multi-family since about 1964 with very minimal code upgrades. So as Stephen started saying, he and his wife purchased the house last summer, summer of 2016, and since then they've been in the midst of

putting intensive renovations of trying to bring the property back to life including bringing it up to the current code, to the current codes. So it's being renovated as a two-family and it has an existing fire escape, which while if it were left in place, would have been accepted as a second means of egress from a code point of view. It's got some issues. It's not a very safe design. It's a vertical wrought iron ladder with no fall protection for half of its length. The owner has a three-month-old baby and trying to imagine exiting this house in an emergency with a burning building with a three-month-old infant trying to hold on to a metal ladder at the same time is sort of a terrifying thought.

The fire escape has damaged the construction of the existing structure and has allowed water entry at every point at which it attaches to the existing building. And so we've had to remove it to actually allow for repairs to the structure.

The petition is for relief from setback requirements to allow construction of a new exterior egress stair that would be much safer.

We've spoken to all of the neighbors and they're all in support of the project. I think we have five letters of support in our package.

CONSTANTINE ALEXANDER: There's one more letter in support it came in.

MICHELLE AUER: Oh, excellent.

CONSTANTINE ALEXANDER: We'll get to that.

STEPHEN GREENFIELD: From the church?

CONSTANTINE ALEXANDER: Yeah, from the church.

MICHELLE AUER: And the stair is almost entirely within the footprint of some of the existing --

CONSTANTINE ALEXANDER: My only question is, and not being an architect is probably a stupid question, why do these stairs seem to meander all over the property? I mean it's so -- and including storage space under -- I don't know

if it was meant to be storage space. It doesn't -- it seems to be raised from the ground at some point. Look at the plans.

STEPHEN GREENFIELD: Are you talking about existing or the plan?

CONSTANTINE ALEXANDER: Say it again?

STEPHEN GREENFIELD: The existing or the plan?

CONSTANTINE ALEXANDER: The plan. Here. You get to the second floor because down here and then it looks like, if you will, on the stilts, what I would call stilts. I don't know how you get up --

MICHELLE AUER: Yeah. One thing that we were trying to also hit a landing that would allow egress from the first floor apartment, so that was kind of trying to get --

CONSTANTINE ALEXANDER: So the first floor apartment will walk into this little landing here that's on the what I call the stilts?

MICHELLE AUER: Yes.

CONSTANTINE ALEXANDER: Oh, I get it.

MICHELLE AUER: So that's driving that way. And the other reason that we kind of took the long straight way kind of sideways was just to keep everything more compact for the lot so we could maximize open space towards the front.

So we have a set of drawings for everybody on the Board if that would be helpful.

CONSTANTINE ALEXANDER: Those are the same ones that are in our file now?

MICHELLE AUER: Yeah.

STEPHEN GREENFIELD: Do you want one?

MICHELLE AUER: And your packet has photos but this is an existing photo of the existing fire escape and other existing conditions.

Do you have anything else to add?

CONSTANTINE ALEXANDER: And you're also seeking a

Special Permit, seeking two forms of relief.

MICHELLE AUER: Yes.

CONSTANTINE ALEXANDER: Regarding altering windows and doors in a setback. Do you want to identify just exactly what you're doing?

MICHELLE AUER: So, this is kind of in support of the Variance request and also just to kind of accommodate replanning of the interior, just moving windows and doors.

CONSTANTINE ALEXANDER: So they go hand in hand basically?

MICHELLE AUER: Yeah.

CONSTANTINE ALEXANDER: Other Members of the Board are perusing the plans. I've look at them already.

JANET GREEN: I looked at them, too. It's a very nice looking house, isn't it?

STEPHEN GREENFIELD: Thank you. Yeah, it's been very little context. We've been spending the past year trying to bring this house back from the brink. It had

really been neglected for decades. I don't know how familiar the Board Members are with that section of Washington Street. It's an interesting mix of some really nice houses, some really not nice houses, and this was one of those less than nice specimens. Some of the pictures show -- really it was not maintained for many decades. So we're hoping to change that. And this is kind of the final piece is getting a Variance, hopefully for this egress. And, again, the real context for it is that the existing fire escape has (inaudible) is dangerous, it's old, it's caused a lot of degradation of the structure. And the egress we plan here, we hope to build is a much neater, cleaner, better, safer alternative. As she mentioned, I have a three-month-old, so exiting under other circumstances is a little precarious. And it's the same design. It is a little bit interesting the way it comes down and meets the landing. It's compact because of the space. But generally it's really comparable to stairwells that exist in all the

neighboring areas. They're all pretty much the same kind of stairway egress.

And then it's in view of all of the neighbors. All of them have supported it, and we have letters from them all supporting it. But I think we'll get to that in a moment. And that's it from me.

CONSTANTINE ALEXANDER: Is that it? The end of your presentation? It can be.

MICHELLE AUER: Yeah.

CONSTANTINE ALEXANDER: Don't look so surprised.

Okay. Questions from Members of the Board?

Comments?

(No Response.)

CONSTANTINE ALEXANDER: None at this point. I'll open the matter up to public testimony.

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

(No Response.)

CONSTANTINE ALEXANDER: I guess not.

We are in receipt of some letters that I think should be read into the file. There is a letter from -- well, I'll read it. (Reading) My name is Troy Ellerbee, E-L-L-E-R-B-E-E. I am the chief operations officer for Christian Mission Pentecostal Tabernacle. Our church purchased 77 Columbia Street from the Swedish Baptist Church and held a dedication service on June 16, 1946. This property is directly adjacent to 346 Washington Street with only ten feet between the structures. The owner of 346 Washington Street, Stephen Greenfield has been in communication with Pentecostal Tabernacle since purchasing the property and during recent renovations. Stephen has indicated his family's plans for a rear wooden egress stairwell exiting their house on the second floor, descending toward the east, rounding the corner, and landing in their property's southeast corner where an original egress existed prior to the start of their renovation.

Pentecostal Tabernacle does not have any concerns with the plan described in the Special Permit application. It is our hope that if there are any changes or additional petitions, that Stephen will continue to communicate with us for our Executive Board's consideration.

Just making, this is a good segue in pointing out that should we approve this tonight, we will tie it to these plans that we have, that you've submitted. Should you -- these have to be the final plans. Should you going forward decide to make some changes, modify them, you're going to have to come back before our Board. So you should be comfortable because this is it or know the consequences if you will.

There are other letters that I should read them into the file because people took the time to write them. There's a letter from the residence of 361 Washington Street, apartment 1L. I can't read the signature. The letter says: We live in apartment 1L at 361 Washington

Street in Cambridge which is across the street to the north from 346 Washington Street. The owner Stephen Greenfield has been telling us about his family's plan to build a wooden rear egress stairwell on the south side of their house, descending east and landing at the southeast corner of their property. We support this plan that's described to us and hope the city can approve it quickly so their renovation can be complete.

A letter from Virginia Greenblatt who resides at 363 Washington Street. (Reading) We live at 363 Washington Street in Cambridge, diagonally opposite 346 Washington Street on the north side. The owner Stephen Greenfield has been telling us about his family's plan to build a rear egress stairwell on the south side of their house descending east and landing at the southeast corner of their property. We support this plan as described to us and hope the city can approve it quickly so the renovation will complete.

The same letter, same text of a letter comes from

Lucia, L-U-C-I-A Paz, P-A-Z de Jimenez J-- D-E and then separately J-I-M-E-N-E-Z who resides at 65A Columbia Street.

And again a similar letter from Carla Gonsalves, G-O-N-S-A-L-V-E-S who resides at 65B Columbia Street.

And lastly, there's a letter from a person whose signature I cannot read but who resides at 75 Columbia Street.

So we have a number of letters all of which are in support of the relief you're seeking.

I will now close public testimony.

Members of the Board, open for discussion or we ready for a vote?

JANET GREEN: Ready.

CONSTANTINE ALEXANDER: I want to make sure everybody is ready.

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

That a literal enforcement of the provisions of

the Ordinance would involve a substantial hardship. This hardship being is that the means of egress and ingress to this two-family structure are less than desirable and need to be upgraded.

That the hardship is owing to the fact that the structure already is non-conforming, and the modification required is necessary.

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

In this regard the Chair would note that the project seems to have unanimous neighborhood support.

It will improve the safety aspects, if nothing else, with regard to access and egress for the occupants of the structure.

So on the basis of these findings, the Chair moves that we grant the Variance requested on the condition that the work proceed in accordance with plans prepared by

Michelle Auer, A-U-E-R architect, several pages in length,
each page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Relief granted. Good
luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

* * * * *

(9:50 p.m.)

(Sitting Members Case No. BZA-013701-2017: Constantine

Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013701, 1430 Mass. Ave.

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

ATTORNEY JAMES RAFFERTY: Good evening, Mr. Chair, Members of the Board. For the record, James Rafferty appearing on behalf of the applicant.

CONSTANTINE ALEXANDER: You look so surprised to represent this property. You were here before us on Liquiteria.

ATTORNEY JAMES RAFFERTY: Yes, that's right. Now that you mention it, I was. So that's why -- I've told people it was a memorable night that night because that application received a five nothing vote, yes. That didn't make the front page of the paper.

BRENDAN SULLIVAN: You've introduced yourself.

ATTORNEY JAMES RAFFERTY: Yes.

CONSTANTINE ALEXANDER: Everybody knows who he is.

ATTORNEY JAMES RAFFERTY: But it's Poke For Me.

Poke P-O-K-E For Me, LLC with Mr. Brett Sigworth,

S-I-G-W-O-R-T-H.

CONSTANTINE ALEXANDER: I'm sorry, my mind wandered for a second. How do you pronounce it? It's not -- I thought it was Poke (Pokay).

BRETT SIGWORTH: So it's Poke Works is the d/b/a.

ATTORNEY JAMES RAFFERTY: Are you saying how do you say the first word?

CONSTANTINE ALEXANDER: Yeah, the P-O-K-E.

BRETT SIGWORTH: Poke (Pokay).

CONSTANTINE ALEXANDER: Pronounced Poke (Pokay).
That's what I wanted to know.

ATTORNEY JAMES RAFFERTY: What's the right pronunciation?

BRETT SIGWORTH: Well, the restaurant is called

Poke (Pokay) Works.

ATTORNEY JAMES RAFFERTY: What did I say?

BRETT SIGWORTH: Poke (Pokay) Works.

CONSTANTINE ALEXANDER: I think you said Poke, but maybe I was dreaming.

BRETT SIGWORTH: Some people say Poke.

ATTORNEY JAMES RAFFERTY: You know what, I read Poke For Me, that's right, I did. So it's Poke (Pokay) For Me.

BRETT SIGWORTH: It's Poke (Pokay) Works is the pronunciation.

CONSTANTINE ALEXANDER: You want represent who own this property in the future, you got to get the name right. Poke (Pokay).

ATTORNEY JAMES RAFFERTY: You're right. You're right.

BRENDAN SULLIVAN: Well, my only question is in reviewing the file, I see absolutely nothing in there

related to the storefront, what it's going to look like.

There is a picture of the existing. One of the findings that we have to find, if we were to grant, is under the Fast Food Ordinance is 11.31b, that the physical design, including color and use of materials of the establishment, shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces, and uses in the particular location. And the question that I have is what is this thing going to look like?

ATTORNEY JAMES RAFFERTY: Well, I want to assure you that's not an oversight. There's no change to the facade. This is a three-year-old storefront that was created by the current tenant. And this operator intends to rely exactly upon what's there.

CONSTANTINE ALEXANDER: So just the sign will change, the name?

ATTORNEY JAMES RAFFERTY: The same glass --

CONSTANTINE ALEXANDER: I saw that in the file.

ATTORNEY JAMES RAFFERTY: The same glass storefront. The same door, the same everything.

BRENDAN SULLIVAN: Okay.

ATTORNEY JAMES RAFFERTY: In fact, significant elements of the interior are being retained as well.

BRENDAN SULLIVAN: So the only thing that changes is the sign out in front?

ATTORNEY JAMES RAFFERTY: Right.

BRENDAN SULLIVAN: To reflect the new establishment?

JANET GREEN: And the product.

ATTORNEY JAMES RAFFERTY: Yes, yes.

CONSTANTINE ALEXANDER: And the sign is intended to comply with our sign ordinance?

ATTORNEY JAMES RAFFERTY: Yes, yes, it is.

PATRICK TEDESCO: And is the sign is spelled --

ATTORNEY JAMES RAFFERTY: But, yeah. At this

location the Board did grant -- made a finding for a Special Permit, fast order food Special Permit three years ago.

That operation is going to be concluding its business and Mr. Sigworth's company, the Poke is going to be operating here. I wasn't frankly familiar with this particular type of cuisine, but I've come to learn a lot about it. There is one other establishment. Mr. Sigworth has one in Davis Square, but I suspect a Board as enlightened as this knows that it's a Hawaiian seafood form of sushi. It's very pop --

CONSTANTINE ALEXANDER: Just put it in your hand.

Just pick it up.

ATTORNEY JAMES RAFFERTY: Do we really need it for James Williamson. He can hear me, can't he? Is there anyone else here?

So the establishment, we've addressed the criteria in our application, but we're all of course mindful of what makes this criteria neat. This is not the type of Special

Permit that can transfer, notwithstanding the fact that it's the same use, so it's a different operator, a different type of food product. This proposal, if you've had an opportunity to see the floor plan, will contain 12 seats. The currently Liquiteria has no seating.

The product itself will provide a service to the neighborhood because it is a unique and interesting form. A variation on sushi as I understand it. Mr. Sigworth can go into all the details.

The amount of actual cooking here that occurs is quite limited. They have the chicken and shrimp that are cooked are cooked in a --

BRETT SIGWORTH: Sous vide machine.

ATTORNEY JAMES RAFFERTY: Sous vide.

JANET GREEN: Oh, yeah.

ATTORNEY JAMES RAFFERTY: I thought he meant the SUV, but that's something --

JANET GREEN: Where's he going to park that?

ATTORNEY JAMES RAFFERTY: Yeah, right.

So he'll have a sous vide, not a grill or a hood of fumes.

And it's a product that he thinks would be very appealing to the demographic, certainly the student population in Harvard Square. The younger visitors to Harvard Square, residents of Harvard Square, office workers. There will be a heavy reliance on walk-in trade given its adjacency to the transit stop and all the other, the highest -- probably the highest amounts of pedestrian activity in the city occur in these few blocks. And it is a business with an established clientele, and at least through its operations in Davis Square.

And it would meet all the criteria around biodegradables, maintaining receptacles. We've covered all of the details with Mr. Sigworth, and we believe that it is the type of product that will be intro -- adding to the offerings, the food offerings in Harvard Square.

We appeared before the Harvard Square Advisory Committee. And not to suggest that they have lower ethical standards, we did bring food there, so -- but we didn't think we should bring food here. But I'm told that they didn't have -- taste the food until after they concluded their proceedings. But it was, I think it's fair to say it was well received.

ANDREA HICKEY: So there's a buffet for us after?

ATTORNEY JAMES RAFFERTY: No, because I know you operate on a higher ethical standard. You couldn't take food. And I don't know whether to bring four or five helpings, so I thought it was best to --

CONSTANTINE ALEXANDER: I just want to underscore something that you've touched on again. Poke -- there are no other Poke establishments in Harvard Square area?

BRETT SIGWORTH: To my knowledge, none, yeah.

CONSTANTINE ALEXANDER: So therefore you are fulfilling a need for such a service in Harvard Square,

which is one of the requirements. You're not a metur or operation where there's many other establishments offering similar food offering? Okay.

I think that's very important -- to me very important consideration.

BRETT SIGWORTH: I would add it's a healthy option, too. Which, you know, we think is nice to offer the students, and everybody a healthy, you know, healthy -- we try to do sustainable fisheries and sustainable product as well.

ATTORNEY JAMES RAFFERTY: I reviewed the criteria with Mr. Sigworth and I explained to him, you know, various members place emphasis on different criteria. And I did talk about the criteria around filling a need, and I told him how critical it was in view of some members. And he was encouraged to hear that, because he said to me that means no one else can come in and open one of these? And I said well, that probably isn't what zoning is intended for, but

it might be a criticism of that approach. But I did assure him. So he's the first one in.

PATRICK TEDESCO: Even though the juice place even though we didn't know Liquiteria was going away, so -- the smoothie place.

ATTORNEY JAMES RAFFERTY: Needs an elastic term, right? I'm not sure --

JAMES WILLIAMSON: Jim, can you use the microphone, please?

ATTORNEY JAMES RAFFERTY: Oh, sorry.

At any rate, it does and we certainly were mindful to that. And it is to our understanding, and I think Mr. Sigworth has surveyed the marketplace that there is not an establishment offering of this type of cuisine in the Harvard Square marketplace. So we definitely would, I would say, have little difficulty satisfying that criteria. Understanding the issues about compatibility of the facades and all that, it's unchanged.

They did -- the only change potentially Mr. Sigworth said is their architect thinks that the front entry, the door may need improvement in terms of handicap accessibility and a slope. But beyond that, that would just be a potential modification of the door in the way it slopes in. But the facade is unchanged.

BRENDAN SULLIVAN: There a number of issues that Harvard Square Advisory have raised, and I wonder if you could go through those.

CONSTANTINE ALEXANDER: Yeah, I was going to make -- that's exactly where I was going.

ATTORNEY JAMES RAFFERTY: Sure. The principal issues that they identified involved loading and trash. And we have been --

CONSTANTINE ALEXANDER: Hours of operation, too.

ATTORNEY JAMES RAFFERTY: Right. Which I, I assumed would be a matter more appropriate for the purview of the Common Victualler license granting --

CONSTANTINE ALEXANDER: I don't know if more appropriate, but certainly appropriate for them. But I think we need to know. We often ask on these FOA, fast order food establishment cases.

BRENDAN SULLIVAN: We just like to know how far that need extends during the day or night.

ATTORNEY JAMES RAFFERTY: Sure. Do you have a sense of when your hours would be?

BRETT SIGWORTH: So yeah, I mean, we talked about this in the previous meeting. In our Davis Square location we are only open till ten. We started being open till eleven. We didn't really have much business after that time. Harvard Square is a very different area and been a busier area. You know, we would love to be open as late as we can and can support business. Certainly if there's traffic coming in at one or two o'clock and we can capture some of that and offer a little healthier options, we are going to be rolling out Poke nachos which might be a really

fun late night thing maybe to summon the crowd.

CONSTANTINE ALEXANDER: You'll be open to at least until ten o'clock at night is what you're saying?

BRETT SIGWORTH: Oh, yeah. I think in Harvard Square and we talked about in the meeting, are open to on Fridays and Saturdays trying to open till one or two and see what happens. And as long as everybody understands if I say I have one -- in the last two weeks or month I only have one person come in, it's not working, you know, I would close a little earlier.

CONSTANTINE ALEXANDER: What time do you open?

BRETT SIGWORTH: We open usually at 11:30.

CONSTANTINE ALEXANDER: Lunch and dinner.

BRETT SIGWORTH: Lunch and dinner. We don't currently have a coffee or morning option that we're providing so lunch and dinner is primary. But we're hoping to staying open later in the evenings as long as we can keep the business. And I think in Harvard Square we might be

able to.

CONSTANTINE ALEXANDER: One of the other things the Harvard Square Advisory Committee mentioned, they'd like to see you keep the lights on --

BRETT SIGWORTH: Yeah.

CONSTANTINE ALEXANDER: -- when the store is closed.

BRETT SIGWORTH: Let's say we had a struggle with being open till two and we had to scale it back to twelve or one, whatever time worked. I can definitely put lights on a timer and then have them, you know, shine out to make sure that there's light until whatever time everybody feels is appropriate. If that's three or four in the morning or whatever. Or it can be 24/7 if it needs to be.

CONSTANTINE ALEXANDER: I'm curious, what do other members think about this notion of requiring them to keep the premises lit even though the store is closed? I'm not sure why that's such a great thing for Harvard Square.

ATTORNEY JAMES RAFFERTY: Frankly, I don't see how it's relevant to the criteria before the Board. I mean, understand, we've got a municipal ordinance around lighting.

CONSTANTINE ALEXANDER: You're right.

ATTORNEY JAMES RAFFERTY: And I spent a lot of time with people in Harvard Square concerned about glare and glow from new buildings being constructed. I mean, it's a point that will be understood, but I think many of the issues raised in this committee were I think appropriate for consideration by the applicant, but were they to find their way into a legal decision that would run with the land and remain in effect and require return to this Board to turn off lights, I think it would, it wouldn't be an effective or appropriate exercise of the Board's Special Permit authority.

CONSTANTINE ALEXANDER: That's my personal view, but I wondered what other Members of the Board thought.

JANET GREEN: I agree with that. The only thing I

was thinking was that, you know, is where the subway stops and that people come out of the subway late at night.

So....

ATTORNEY JAMES RAFFERTY: Right. I know the landlord's here and he's mindful of, you know, they work cooperatively with the city about maintaining well lit corners and all that. So I know it's certainly, everyone is on the same page. You know, staying open later? Most of the businesses I represent here spend a good bit of effort at the Licensing Commission convincing them to be able to achieve later hours. So because later hours are welcome when there's business to support it. So clearly the operator would do that. But once again the factors associated with hours of operation really are -- the License Commission has a little more experience in understanding the relationships between -- sometimes if it's open too late and when licensed establishments are closing, we've had some scenarios where if you're open until three and you become

the place where everyone goes when everyone else empties at two, problems arise and I would for that reason similarly suggest the closing time of this restaurant would be best determined by examination at the License Commission.

CONSTANTINE ALEXANDER: Okay. Interesting point.

Anything further?

ATTORNEY JAMES RAFFERTY: No. We have the menus, but I think -- and the food, and I think -- I hope we've satisfied the criteria. It's a high reliance on walk-in trade and I think the, and the establishment will of course comply with all the health and safety requirements.

CONSTANTINE ALEXANDER: Handicap accessible? Had to be if Liquiteria has been operating there. This obviously complies with the handicap --

ATTORNEY JAMES RAFFERTY: Yes, it does. In fact, they're adding a -- since Liquiteria didn't have seating, this establishment will have a bathroom so -- because of the seating. And they'll have a handicap bathroom as well.

It's gonna be frankly more of a restaurant than the prior use, but it's -- I think it achieves, it avoids the concerns that are in the criteria around parking, excessive noise.

There is a loading zone. I wanted to address the points of the advisory committee.

CONSTANTINE ALEXANDER: Right.

ATTORNEY JAMES RAFFERTY: There is a loading zone on Church Street. The loading here is once a day. Modest for about 15, 20 minutes Mr. Sigworth tells me.

BRETT SIGWORTH: It says it's from eight a.m. to eight p.m.

ATTORNEY JAMES RAFFERTY: No, no, your loading activity.

CONSTANTINE ALEXANDER: When would you restocking your --

ATTORNEY JAMES RAFFERTY: Maybe you can describe the amount of reloading that occurs.

BRETT SIGWORTH: So we have about four or five

vendors we use. We do get deliveries almost daily, because we like to keep fresh product in the store only. But we don't get large deliveries, so it's usually one or two pallets coming in at the time.

CONSTANTINE ALEXANDER: What time of day do they come?

BRETT SIGWORTH: To be honest right now in Davis Square, they come in at all times. But I did talk with the previous committee and if that was an issue, we could talk about having -- trying to work with our vendors to have -- to condense the times or do them early in the morning. If not, you know, it's not really a concern. We do -- while we don't open until 11:30, we have staff that are usually in somewhere between eight and nine to start prepping food for the day. So we take a lot of our deliveries in the morning, it's much easier than to take them when we're open anyway. That's pretty much we try to get most of them in the morning. It's not to say there

isn't, oh, we're running low on this product, someone comes at four and drops off two cases for us so that we have product for the evening, it does happen.

ANDREA HICKEY: Do your deliveries typically come in big giant trucks or vans?

BRETT SIGWORTH: They're sort of midsize trucks. They're not the huge trucks. And like I said, we're usually only getting a couple. We're not getting huge amounts of stuff. So they're usually unloading one pallet, running in the store. They're there for five, six, seven minutes. If they're doing two pallets another maybe 10 or 15. But we don't have people coming in and doing 20 pallets of one item, being parking for an hour or that type of thing. It's, you know, several vendors being in and out pretty quickly.

ATTORNEY JAMES RAFFERTY: I mean, from its description it sounds like the loading activity would be no different than any of the allowed retail and restaurant uses

at this location.

CONSTANTINE ALEXANDER: That makes the same point.

ATTORNEY JAMES RAFFERTY: So there's nothing about the fast food nature of this business that would have a different kind of impact from a loading perspective.

CONSTANTINE ALEXANDER: Yeah, and I think other boards, it's more relevant to other boards and the City's traffic and parking.

ATTORNEY JAMES RAFFERTY: Right. And if there was something unique about -- and it's certainly an appropriate point of inquiry. But if there's something unique about a fast food use here that had a different type of delivery style.

ANDREA HICKEY: Yeah, the unique aspect to me is the fresh sort of requirement of something that has to be delivered everyday.

CONSTANTINE ALEXANDER: Right.

ANDREA HICKEY: You know.

ATTORNEY JAMES RAFFERTY: Right. And then finally the building has, has trash storage and a loading dock on Palmer Street so that's -- the trash is stored and located in with other businesses in the building and is picked up. And the pick up occurs on Palmer Street so there's not any disruption on Church Street or Mass. Ave. with the picking up of the trash.

CONSTANTINE ALEXANDER: Any other comments from Members of the Board?

(No Response.)

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

Is there anyone here wishing to be heard on this matter? Mr. Williamson. Mr. Brandon I saw last. If you want to go, go ahead. Go ahead.

MICHAEL BRANDON: Just a couple of questions. One is how many employees -- how many employees do you expect? And how many on premises at one time?

BRETT SIGWORTH: You want me to answer that?

CONSTANTINE ALEXANDER: Yeah.

BRETT SIGWORTH: Okay. We, we typically have about 20 employees in the restaurant at a time. It's usually anywhere from 7 to 15, 10. Depending on if we're really busy, we'll have more like 10 or 15. If it's slower, we might only have five or six. In the mornings might be just one or two.

MICHAEL BRANDON: And do you have any plans for delivery of food? Delivery of meals?

BRETT SIGWORTH: So as far as -- you mean like catering or things --

CONSTANTINE ALEXANDER: No, somebody who -- takeout order. Somebody calls up and says --

MICHAEL BRANDON: Can you deliver?

BRETT SIGWORTH: So we don't hire our own delivery drivers. That's not a business we're looking to get into. We do work with Grub Hub and services like that that come

and pick up food. You know, I don't know in this location if they won't be able to park, it wouldn't be something we would be able to do.

CONSTANTINE ALEXANDER: That's Mr. Brandon's point I think, is the parking.

MICHAEL BRANDON: Potential for double parking.

CONSTANTINE ALEXANDER: That's a good point. I hadn't thought about that.

BRETT SIGWORTH: We do do that in other locations. But I guess they would either have to find parking or we'd have to figure something out.

MICHAEL BRANDON: Thank you.

CONSTANTINE ALEXANDER: Thank you, Mr. Brandon.

BRETT SIGWORTH: It's not a critical part of our business.

CONSTANTINE ALEXANDER: It's not given it's fresh fish.

James.

JAMES WILLIAMSON: So, thank you. 1000 Jackson Place. I'm here pretty much staying in shape for another fast food Special Permit that is gonna be coming before you in a short while. I -- not every fast food permit is of as keen concern to me as others. Part of it depends on the location, the nature of the food, and a number of other things. I'll start by saying I was the beneficiary of certain emolliements (sic) in this case in that I showed up at the Harvard Square Advisory Committee late but not so late that I didn't get to taste, enjoy some of the food. And it was certainly enjoyable. There was an awful lot of it. I will say that the Harvard Square Advisory Committee, the notices for it were not well done. The normal, the normal notice on the Harvard Square Advisory page was not there. It was absent, although it was posted at the City calendar where I think it's really important that it be posted. And the materials, there were complaints that the materials, such as they were, were not available. So even

if I -- and I didn't know until the last minute that the hearing was underway and I showed up late. But I -- so okay, I guess this is a franchise operation.

CONSTANTINE ALEXANDER: I don't think so.

JAMES WILLIAMSON: I believe it is.

ATTORNEY JAMES RAFFERTY: No, it is.

CONSTANTINE ALEXANDER: It is?

JAMES WILLIAMSON: The franchisee, the gentleman has the franchise for Davis and is extending it to Harvard Square. There aren't a lot of them, as I understand it, around the country. The one clarification -- and I think you touched on it already, is the name for the business as people walk by and see the sign is going to be Poke Works, not Poke For Me, right? And okay. So and it's Nirvana either which I saw in the application crossed out.

I think Brendan touched on a really important aspect of this is what is this going to look like? And the comment was that it's not gonna really be changed. And I

think in a way that's unfortunate because the current color scheme and signage of Liquiteria is kind of not very attractive. It's this turquoise and there are several pieces of signage in the window and also as sort of turquoise, a tile -- a turquoise tile piece that runs across the entire frontage of the building on the inside, and I guess it would be nice to get a little bit of clarification on how this is gonna end up looking in the light of what's currently there. I presume all of that's gonna go, and there's actually gonna be some difference in what it's gonna end up looking like.

I also noticed the other day something I hadn't really noticed before, but there's a really beautiful feature to this corner, which is kind of hidden in how fast everybody moves around that corner, which is on the right-hand side there's this sort of little kind of storefront element with a different material, kind of wrought iron material, and a different sort of fenestration.

It's like this little -- tiny little sliver on the right-hand side on the Church Street side. And I found myself wondering how that could be enhanced or respected in how the new tenant manages the signage and the look of the storefront. So it's not completely unimportant, you know, to think about that I think.

And the loading. CVS, I don't know if they scaled back how much they're using that sidewalk, but for a long time CVS were parking their 18-wheelers on Church Street and using the entire sidewalk as their loading zone.

ATTORNEY JAMES RAFFERTY: They closed yesterday.

JAMES WILLIAMSON: Okay.

CONSTANTINE ALEXANDER: What closed?

ATTORNEY JAMES RAFFERTY: CVS.

JAMES WILLIAMSON: On that side. And they shifted everything over on to the kiosk. And what I remember feeling like hey, whose sidewalk is this? I think there is a question of how late, especially later at night, how much

activity, loading activity -- I understand it's a few pallets, how much activity that loading activity there's gonna be on that very busy sidewalk which is right -- and the entrance is right opposite the exit from the T among other things.

The other question I had about congestion, potential congestion has to do, again, with the use of the sidewalk is there a plan for sidewalk seating insofar as that might be relevant to your considerations. There's already sidewalk seating in front of Otto. It does take up a pretty big chunk of the sidewalk there. So I'm not sure how sidewalk seating would work if there's, if the applicant is contemplating that, and how important that might be to think a little bit about now.

So I guess -- oh, one other thing -- one other observation I wanted to make which is just in the light of the nature of the application. The applicant in the various checkboxes, there's an indication that we're going to have a

lot more activity here, there's gonna be a lot of walk-in stuff, and this is gonna match one of the criteria for granting the Special Permit, but on the other hand, there's the congestion criteria saying well, we're not really gonna be creating that much congestion. My sense of it is Liquiteria is leaving because they failed and they haven't done well and they haven't had a lot of foot traffic. This, they might do quite well. Certainly I think better than Liquiteria. And I think there will be a lot more foot traffic at that corner, and I just wonder in general in terms of the criteria how the Board might balance on the one hand we want a lot more activity, on the other hand we want to be sensitive to the level of congestion that a very successful business may well generate in that location. So those are my comments.

CONSTANTINE ALEXANDER: Thank you.

What are your plans for outdoor seating?

ATTORNEY JAMES RAFFERTY: At the moment there

isn't a plan. There has been an opinion expressed to Mr. Sigworth by some in Harvard Square that they would like to see him pursue outdoor seating. He hasn't made a determination on that. There's a process involved through the Department of Public Works and the City Council that ultimately approves that. And it would also require approval at the License Commission. But I think it's fair to say at the moment you haven't -- it's not in your -- in their initial phase. But he said he did hear from members of the Harvard Square Business Association who he met with, that they would like to see seating and they would also like to see the pay phones in that area removed.

JAMES WILLIAMSON: The what?

CONSTANTINE ALEXANDER: Pay phones.

ATTORNEY JAMES RAFFERTY: So, but at any rate Mr. Sigworth as you probably have gleaned is very cooperative and eager to respond to concerns and voices. So he has heard interest expressed and I suspect at some point,

he may if there's support for that, he's willing to do it. But there are the issues that have been noted, the activity with the, with the transit stop and the need to create a pedestrian zone that's unencumbered. So there hasn't been tables there historically, but Otto does have a few.

JAMES WILLIAMSON: I'm sorry, may I -- where is the loading zone going to be? Where are the vehicles meant to park? Is there one that's established?

ATTORNEY JAMES RAFFERTY: Well, it's the existing loading zone on Church Street around the corner.

JAMES WILLIAMSON: Right where the CVS trucks used to be?

CONSTANTINE ALEXANDER: I don't know if that's true. But it's on the Church Street corner -- side the corner of the store if you will.

Any other questions or comments from members --

BRENDAN SULLIVAN: Can I see the menu?

ATTORNEY JAMES RAFFERTY: Sure.

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

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. While you're looking at that, Brendan. There is a letter in the file from Denise Jillson, the Executive Director of the Harvard Square Business Association. Jillson is spelled J-I-L-L-S-O-N. (Reading) Please accept this letter of support for Poke Me to operate a fast order food establishment in Harvard Square. We had the pleasure of meeting the owners at the Harvard Square Advisory Committee meeting last week. They assured us that they will be good community partners by taking care of their trash, maintaining the outside of their premise, participating in community events, maintaining attractive and safe lighting, and managing their deliveries with thought and care. It is for all of these reasons that we are supportive. And also we tasted the food. It is quite unlike anything that we

have in the square at the moment with unusual ingredients like lotus flowers and hijiki seaweed. It was fresh, delicious, and plentiful. We feel certain that our students, visitors, and residents will enjoy what they have to offer.

And that's it.

MICHAEL BRANDON: Mr. Chair, is there a communication from the Advisory Committee?

CONSTANTINE ALEXANDER: Yes, it's long. And it's not easy to read.

MICHAEL BRANDON: No need to read it.

ATTORNEY JAMES RAFFERTY: It has a concluding sentence, though, that they support it.

CONSTANTINE ALEXANDER: Oh, yeah, but you've mentioned that.

ATTORNEY JAMES RAFFERTY: He doesn't believe it when I say it though.

CONSTANTINE ALEXANDER: It's a unanimous vote of

the Harvard Square Advisory Committee.

MICHAEL BRANDON: Thank you.

CONSTANTINE ALEXANDER: And I welcome you to come look at it if you like, but just given the hour it's late, I don't propose to read it.

JAMES WILLIAMSON: Not every member was there that night.

CONSTANTINE ALEXANDER: I'm sorry?

JAMES WILLIAMSON: Not every member was there that night.

CONSTANTINE ALEXANDER: That's right, but they had enough for a quorum presumably that's why they took action.

Discussion from Members of the Board? Brendan, do you want some more time to look at that?

BRENDAN SULLIVAN: No, I'm good.

CONSTANTINE ALEXANDER: Okay, ready for a vote?

ATTORNEY JAMES RAFFERTY: You need a translation?

CONSTANTINE ALEXANDER: This being a Special

Permit for a fast order food establishment, we have sort of two different types of votes to take with regard to whether to grant the Special Permit versus pursuant to Section 11.31. We have to find that the following requirements will be met:

That the operation of the establishment shall not create traffic problems, reduced available parking, threaten the public safety in the streets and sidewalks, or encourage or produce double parking on the adjacent public streets.

B, that the physical design, including color and use of the materials of the establishment, shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces, and uses in the particular location.

The petitioner has represented to us that they're going to keep the current color scheme and exterior design as exists now with Liquiteria except for the fact that the signage will be changed.

That the establishment fulfills a need for such a service in the neighborhood or in the city. And in regard to this, this will be the first and maybe only Poke establishment in Harvard Square offering a different food offering than you can find in other fast order food establishments in the square. Therefore, there is -- it is fulfilling a need.

That the establishment will attract patrons primarily from walk-in trade as opposed to drive-in or automobile-related trade.

And I think you've represented to us that your experience is such that you don't expect a lot of people -- well, no place to park anyway. But you're going to be appealing to walk-in trade.

BRETT SIGWORTH: Sure.

CONSTANTINE ALEXANDER: That the establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and in the

utensils and other items provided for consumption thereof.

And Mr. Rafferty addressed that. He's given us the assurance that you will.

And that the establishment shall provide convenient, suitable, and well marked waste receptacles to encourage patrons to properly dispose of all packaging, materials, utensils, and other items provided with the sale of food.

Where will you have your disposables? I mean, where will people cast away what they're going to --

BRETT SIGWORTH: Yeah, we typically have a recycling bin and a trash receptacle --

CONSTANTINE ALEXANDER: Okay.

BRETT SIGWORTH: -- next to each other marked very clearly what's recyclable and what's trash.

CONSTANTINE ALEXANDER: Do you have anything on the outside of the doors? Is it all interior?

BRETT SIGWORTH: It's all interior, yeah.

CONSTANTINE ALEXANDER: And lastly, the establishment complies with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons.

And you advised us that you're planning to -- because you're going to have seating, you are putting in restrooms on the premises and that they will comply with the legal requirements for handicap persons.

And then turning to the more general requirements for a Special Permit, the Chair moves that we make the further following findings:

That the requirements of the Ordinance cannot be met without the granting of the Special Permit.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character. And with regard to congestion, I think I'm right, I would suggest that though this is a busy area, that the sidewalk here is

broader than it is in other parts of the Harvard Square area and, therefore, that should minimize congestion.

That there is no proposal to, at least so far, to have outdoor seating. And that if there was, that would reduce the amount of sidewalk space for people who walk through on the street.

That the continued operation or development of adjacent uses will not be adversely affected by what is being proposed. And this follows from the fact that the food offering you have is unlikely food offerings of the neighboring food establishments.

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

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

So on the basis of all these findings, the Chair moves that we grant the petitioner a Special Permit to operate his proposed fast order food establishment.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Relief granted.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

ATTORNEY JAMES RAFFERTY: Thank you very much.

* * * * *

(10:25 p.m.)

(Sitting Members Case No. BZA-013725-2017: Constantine Alexander, Brendan Sullivan, Janet Green, Andrea A. Hickey, Patrick Tedesco.)

CONSTANTINE ALEXANDER: The Chair will call case No. 013725, 19 Harrison Avenue.

Is there anyone here wishing to be heard on this matter? For the record.

CHARLIE ALLEN: My name is Charlie Allen, owner of Charlie Allen Renovations. I'm the contractor for this project.

DAVID FENCHEL: My name is David Fenchel from Traverse Architects in Cambridge.

CHARLIE ALLEN: To my right is Mr. Murray, Geoffrey K. Murray.

Mr. Murray got out of bed sick -- his sickbed to be here tonight and in the lobby asked if I would be his voice. So I will do the best to represent him. He and his wife are the parents of two school aged children. And they purchased the house in 2010, and it was in the need of a good deal of work and they have embarked on a, you know, typical program of getting the kitchen and a few spaces on the first floor and turning their attention to the envelope, done the roof and the gutters, and continuing on the

envelope, doing the exterior. And part of that is dealing with an entry, enclosed entry porch that's at the end of its serviceable life and it is built on a monolithic pour that has no ow foundation. And from the monolithic pour to the house is a ten-inch step that actually causes the visiting elderly members of the family actually some real difficulty in getting in the house. And if the Board was to grant the request for relief, it would allow them to build a slightly larger structure that would truly be a mudroom. If you'll look, you'll see the four cubicles and you'll see the taller snow shovel storage. And then while doing that if they were allowed to build above it a second story addition, it would make one of those very small rooms above the stairs into an actual usable room.

The second story front addition is actually standard in the neighborhood. This is actually the only house that doesn't have one. We've tried to design it so that it fits the house in the neighborhood. We think it's

attractive. And it certainly is an improvement in function and use for the family.

Mr. Murray's presented the plans to the, all the abutters and to the abutters of the abutters that he knew and they all are delighted that they'll see another improvement to this house and to the neighborhood. So in short, again, if we, we hope the Board will approve the family's request for this addition.

CONSTANTINE ALEXANDER: Okay.

Comments from Members of the Board?

I would just point out just so for the record that the relief being requested is FAR. And they want to go from -- in a 0.5 district they're currently at 0.773 and they're going to go to 0.779, so a slight increase. And also the front yard setback issue, currently the property is compliant as to the front yard at 15 feet, two inches or two feet, 15.2 feet. And -- in a 15-foot required district. And you will go to 12.7 feet front yard. So you're going to

reduce the front yard. That's just by way of information.

Comments from Members of the Board?

BRENDAN SULLIVAN: No. I think my comment -- my thought by reviewing the file and also the house is that, you know, the mudroom does make sense to expand it for a variety of reasons as Charlie mentioned, but that also that the second floor is somewhat consistent, and those were typical of sort of like smaller sitting rooms way, way back or something. And aesthetically it completes I think that front facade of the house. I mean, I think it has form but it also has function and the function also has the form, but I think it, to me, it completes that front of that house.

CONSTANTINE ALEXANDER: Thank you, Brendan.

Any other comments?

(No Response.)

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

Is there anyone here wishing to be heard in this

matter?

(No Response.)

CONSTANTINE ALEXANDER: Obviously no one wishes to be heard.

I don't have any -- I believe I've seen letters, but I guess. There are no letters of support. You've represented to us that your neighborhood is in support of what you want to do.

I will close public testimony. Ready for a vote?

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

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship. Such hardship being is that this older structure needs to update its mudroom, whether it be for the current occupants or future occupants. And that there is also a need of both architectural I think and also functional to have additional living space on the second floor which would be right over

the mudroom addition.

That the hardship is owing to the fact that this is already a non-conforming structure, and therefore any modification requires zoning relief.

And relief -- lastly, that relief may be grand without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard the Chair would note there is no neighborhood opposition.

That the relief being sought is rather modest and it is quite functional in terms of the occupancy of the structure.

So on the basis of all of these findings, the Chair moves that we grant the Variance requested on the condition -- let me just stop right here.

These are the plans. We're going to tie it to these plans. If you change these plans, you're going to

have to come back.

DAVID FENCHEL: Understand.

CONSTANTINE ALEXANDER: On the condition that the work proceed in accordance with the plans prepared by Traverse Architects, I think there's four pages, each page of which has been initialled by the Chair.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance granted. Good luck.

(Alexander, Sullivan, Green, Hickey, Tedesco.)

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

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Inspectional Services Department.

INSTRUCTIONS

After reading this volume of the Zoning Board of Appeals transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Zoning Board of Appeals, and except for any corrections or changes noted above, I hereby subscribe to the transcript as an accurate record of the statement(s) made by me.

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
 BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of August, 2017.

 Catherine L. Zelinski
 Notary Public
 Certified Shorthand Reporter
 License No. 147703

My Commission Expires:
 April 29, 2022

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\$**\$50,000** ^[1] - 67:10**0****0.5** ^[2] - 9:4, 270:9**0.66** ^[1] - 70:2**0.73** ^[1] - 9:5**0.75** ^[2] - 70:2, 108:6**0.76** ^[1] - 108:7**0.773** ^[1] - 270:10**0.779** ^[1] - 270:11**0.79** ^[1] - 108:9**0.81** ^[1] - 9:5**013173** ^[1] - 119:6**013489** ^[1] - 5:6**013611** ^[1] - 54:6**013661** ^[1] - 93:6**013671** ^[1] - 107:6**013690** ^[1] - 122:6**013691** ^[1] - 199:6**013701** ^[1] - 217:6**013707** ^[1] - 181:6**013725** ^[1] - 267:6**02139** ^[1] - 1:7**07/13/17** ^[2] - 2:3, 2:5**1****1** ^[1] - 186:15**1.75** ^[1] - 128:1**10** ^[6] - 131:1, 141:2,

241:14, 244:15,

244:17

100 ^[2] - 16:15,

142:17

1000 ^[2] - 22:15,

246:16

107 ^[1] - 2:8**10:25** ^[1] - 267:1**10:30** ^[1] - 275:6**11** ^[2] - 6:6, 6:7**11.31** ^[1] - 260:7**11.31b** ^[1] - 220:13**1100** ^[1] - 82:12**113** ^[1] - 181:14**119** ^[1] - 2:9**11:30** ^[2] - 233:7,

240:13

12 ^[1] - 224:6**12.7** ^[1] - 270:16**122** ^[1] - 2:10**13** ^[2] - 61:7, 61:9**137** ^[4] - 2:3, 5:6,

29:3, 59:11
14 [4] - 88:12, 88:18,
 89:1, 120:18
1400 [1] - 61:6
1430 [2] - 2:13, 217:6
147703 [1] - 277:10
14th [1] - 119:16
15 [13] - 107:18,
 111:6, 111:10,
 131:1, 141:1,
 147:14, 188:6,
 188:8, 239:5,
 241:14, 244:15,
 244:17, 270:13
15-foot [1] - 270:15
15.2 [1] - 270:14
16 [7] - 2:7, 93:6,
 94:1, 97:1, 103:15,
 171:14, 210:10
1600 [1] - 11:8
17 [1] - 31:5
170 [1] - 10:10
18 [2] - 41:18, 42:2
18-wheelers
 [1] - 251:2
181 [1] - 2:11
1895 [1] - 95:10
19 [3] - 2:14, 147:12,
 267:6
1901 [1] - 95:10
1946 [1] - 210:10
1964 [1] - 201:12
1980s [1] - 201:2
1984 [1] - 110:7
199 [1] - 2:12
1L [2] - 212:5, 212:7

2

2 [1] - 186:16
20 [7] - 101:10,
 101:13, 104:2,
 179:17, 239:5,
 241:15, 244:14
200 [1] - 9:8
2001 [6] - 96:4, 97:7,
 97:11, 105:3, 105:5,
 105:12
2005 [1] - 128:9
2010 [1] - 268:3
2015 [1] - 128:10
2016 [1] - 201:15
2017 [4] - 1:4, 66:12,
 179:17, 277:6

2018 ^[1] - 14:9
202 ^[1] - 152:1
2022 ^[1] - 277:12
213 ^[1] - 191:13
217 ^[1] - 2:13
22 ^[1] - 28:18
2300 ^[1] - 108:12
24 ^[1] - 147:13
24/7 ^[1] - 234:13
24th ^[7] - 119:16,
 120:2, 120:4, 120:7,
 120:8, 120:16,
 121:5
25 ^[2] - 101:10, 115:5
2551 ^[5] - 2:10, 122:6,
 123:1, 149:1, 149:9
2557 ^[1] - 151:16
267 ^[1] - 2:14
27 ^[2] - 1:4, 158:5
271 ^[2] - 8:17, 13:13
273 ^[2] - 2:9, 119:6
28 ^[1] - 62:17
28th ^[8] - 85:17, 87:6,
 87:15, 88:12, 88:13,
 89:1, 89:11, 89:14
29 ^[1] - 277:12

3

3,000 ^[1] - 61:10
30 ^[2] - 61:2, 95:15
32 ^[1] - 62:18
346 ^[7] - 2:12, 199:6,
 199:12, 210:11,
 210:13, 212:9,
 213:2
35 ^[7] - 62:13, 126:16,
 127:6, 132:12,
 149:12, 159:2,
 163:4
35-37 ^[2] - 2:4, 54:6
36 ^[1] - 63:15
361 ^[2] - 212:5, 212:7
363 ^[2] - 212:18,
 213:1
37 ^[2] - 28:5, 114:10

4

4-6 ^[1] - 29:1
40 ^[4] - 10:14, 61:1,
 82:14, 138:16
40-plus ^[2] - 56:2,
 78:16
40-unit ^[2] - 71:15,

77:18

42 ^[1] - 63:14

45 ^[7] - 2:8, 107:6,
107:17, 108:5,
114:6, 114:13,
115:10

46 ^[1] - 83:3

48 ^[2] - 16:14, 114:4

5

5 ^[3] - 2:3, 114:4,
123:5

5,000 ^[1] - 123:12

50 ^[9] - 10:14, 107:14,
113:3, 126:16,
128:2, 132:9, 138:8,
174:1, 188:16

54 ^[1] - 2:5

55 ^[2] - 2:6, 142:18

56 ^[2] - 91:2, 91:12

6

6 ^[4] - 11:4, 155:8,
175:13, 175:14

6.34 ^[1] - 46:10

6.36 ^[6] - 45:12,
45:13, 46:3, 46:9,
49:14, 50:8

6.43 ^[2] - 46:12, 47:8

6.43.4 ^[1] - 46:14

60 ^[2] - 9:16, 10:1

600 ^[1] - 61:3

617.786.7783/617.63

9.0396 ^[1] - 1:16

65A ^[1] - 213:14

65B ^[1] - 213:16

675 ^[2] - 5:14, 54:11

7

7 ^[1] - 244:15

7/24 ^[1] - 198:6

7/27 ^[2] - 198:1, 198:3

71 ^[2] - 108:8, 113:6

72 ^[4] - 2:11, 181:6,
181:12, 182:1

75 ^[1] - 214:2

77 ^[1] - 210:8

7:00 ^[3] - 1:4, 3:3, 5:1

7:40 ^[1] - 54:1

7:45 ^[1] - 119:14

8

8 ^[2] - 73:14, 76:5

806 ^[1] - 1:6
8:05 ^[2] - 91:1, 93:1
8:15 ^[1] - 107:1
8:25 ^[2] - 119:1, 122:1

9

90 ^[1] - 10:15
91 ^[1] - 2:6
93 ^[1] - 2:7
9:20 ^[1] - 181:1
9:35 ^[1] - 199:1
9:50 ^[1] - 217:1
9th ^[1] - 277:6

A

A-2 ^[1] - 143:2
a.m ^[1] - 239:8
A2 ^[1] - 140:11
abide ^[2] - 164:14,
 165:2
ability ^[2] - 17:14,
 81:14
able ^[15] - 13:7, 38:7,
 59:4, 84:17, 114:3,
 131:10, 137:15,
 143:10, 153:18,
 170:4, 173:12,
 233:15, 236:16,
 245:14, 245:15
above-mentioned
^[1] - 103:17
absent ^[1] - 247:15
absolutely ^[1] - 220:8
abut ^[1] - 71:15
abuts ^[4] - 56:1,
 149:4, 167:6,
 176:13
abutted ^[1] - 167:10
abutter ^[13] - 15:1,
 18:7, 26:15, 29:16,
 94:4, 134:13,
 148:14, 154:15,
 164:17, 169:2,
 170:3, 170:5, 179:5
abutters ^[10] - 15:10,
 15:11, 29:15, 94:5,
 161:8, 164:15,
 191:14, 269:17,
 269:18
abutting ^[6] - 24:2,
 29:2, 77:16, 142:14,
 149:13, 187:3
accept ^[2] - 50:15,

257:2

acceptably

[1] - 168:12

accepted [1] - 202:4

access [8] - 41:11,

52:4, 81:3, 96:12,

125:5, 149:14,

215:14, 264:14

accessed [1] - 125:10

accessibility

[3] - 81:1, 81:15,

230:4

accessible [9] - 59:4,

79:13, 80:8, 80:14,

81:10, 83:17, 84:7,

238:6

accessory [1] - 110:8

accommodate

[8] - 12:5, 12:16,

37:5, 59:3, 64:5,

150:14, 195:4,

206:18

accommodating

[2] - 12:14, 40:4

accomplis [1] - 170:3

accomplished

[1] - 151:4

accordance

[7] - 36:1, 105:9,

117:15, 179:15,

197:16, 216:1,

274:14

according

[1] - 201:11

accurate [3] - 47:1,

276:15, 277:5

achieve [4] - 84:18,

144:2, 149:2,

236:16

achieves [1] - 238:15

achieving [1] - 150:2

acknowledge

[1] - 146:4

acknowledgement

[2] - 74:5, 77:12

acknowledging

[1] - 71:12

acoustical

[1] - 193:16

action [1] - 259:11

activates [1] - 172:12

activity [11] - 18:13,

225:16, 239:10,

242:3, 251:14,

251:15, 251:16,
 252:18, 253:13,
 255:9

actual ^[3] - 142:13,
 224:13, 269:7

ADAM ^[1] - 151:16

Adam ^[5] - 151:16,
 154:11, 156:9,
 156:14, 159:4

add ^[9] - 11:10, 14:15,
 68:11, 113:6,
 114:12, 115:15,
 130:2, 206:8, 228:1

adding ^[5] - 20:1,
 96:18, 151:6, 226:6,
 238:10

addition ^[10] - 24:9,
 24:16, 25:12, 114:6,
 115:12, 115:18,
 269:6, 269:9, 270:4,
 273:9

additional ^[18] - 8:18,
 9:9, 13:14, 13:16,
 15:12, 35:11, 35:12,
 43:3, 56:4, 56:10,
 57:5, 64:15, 65:11,
 66:5, 116:14,
 196:15, 211:8,
 273:7

additionally
^[2] - 125:13, 173:10

address ^[14] - 13:15,
 25:11, 103:18,
 107:11, 107:14,
 147:10, 148:12,
 151:14, 181:10,
 194:5, 199:9,
 199:15, 199:18,
 239:1

addressed
^[5] - 31:17, 158:17,
 159:15, 223:16,
 262:12

addresses
^[2] - 75:15, 115:6

adds ^[3] - 10:7, 17:5

adequacy ^[1] - 162:6

adequate ^[2] - 85:12,
 163:7

adhere ^[1] - 165:6

adjacency ^[6] - 71:13,
 72:17, 124:4, 124:5,
 126:10, 225:14

adjacent ^[11] - 20:17,

52:9, 125:16,
126:13, 127:10,
128:4, 131:8, 187:2,
210:11, 260:13,
265:9

adjoining [2] - 52:18,
266:2

Adjourned [1] - 275:7

adjustment

[1] - 100:17

admittedly

[2] - 18:15, 75:14

adopted [2] - 73:17,

76:7

advance [1] - 121:7

advantage

[4] - 57:14, 65:5,

66:4, 66:8

adverse [1] - 169:3

adversely [2] - 52:10,

265:10

advertise [2] - 12:17,

47:4

advertised [1] - 46:8

advertisement

[4] - 37:12, 37:16,

47:9, 50:7

advice [1] - 7:18

advise [1] - 4:2

advised [2] - 162:8,

264:1

Advisory [9] - 226:9,

230:9, 233:17,

247:8, 247:12,

247:14, 257:6,

258:5, 258:17

advisory [1] - 239:1

aesthetic [1] - 20:1

aesthetically

[1] - 271:10

aesthetics

[1] - 177:16

affected [4] - 52:10,

73:2, 145:4, 265:10

affordability

[1] - 84:11

affordable [10] - 81:7,

81:8, 82:6, 82:7,

82:13, 82:18, 83:1,

83:10, 84:6, 86:10

Affordable [3] - 82:9,

84:15, 94:4

aforementioned

[1] - 20:13

afraid ^[1] - 148:4
afterwards
^[2] - 156:5, 159:12
aged ^[2] - 7:12, 268:2
agencies ^[2] - 149:2,
149:5
agenda ^[2] - 4:10,
91:7
ago ^[9] - 14:11, 31:4,
96:3, 101:13,
123:11, 132:11,
135:5, 200:12,
223:1
agree ^[7] - 44:10,
47:14, 49:3, 170:12,
177:2, 178:14,
236:4
agreed ^[9] - 76:10,
132:10, 137:6,
137:15, 149:6,
149:17, 152:17,
153:4, 158:14
agreeing ^[2] - 152:18,
153:2
agreement
^[7] - 152:14, 152:16,
153:9, 160:2, 163:1,
170:5, 170:10
ahead ^[4] - 73:6,
74:16, 244:4, 244:5
air ^[1] - 160:15
ALEXANDER
^[332] - 3:7, 5:5, 5:16,
15:4, 15:8, 15:13,
16:11, 16:16, 17:2,
18:9, 19:3, 19:8,
19:10, 20:4, 21:4,
21:11, 21:15, 22:9,
23:1, 25:4, 25:11,
25:15, 26:10, 26:16,
27:18, 28:2, 28:12,
28:16, 30:14, 31:13,
33:7, 33:14, 33:17,
34:8, 34:14, 35:13,
36:6, 36:10, 37:2,
37:7, 37:12, 38:1,
38:13, 39:10, 39:17,
40:8, 41:7, 45:1,
45:5, 47:6, 48:1,
48:9, 48:17, 49:9,
49:18, 50:12, 50:17,
51:11, 53:10, 54:5,
54:18, 55:5, 55:7,
57:9, 59:10, 59:15,

59:18, 60:6, 65:13,
67:17, 68:4, 70:1,
70:7, 70:15, 71:2,
71:6, 73:6, 74:12,
74:16, 75:11, 76:6,
76:11, 76:15, 78:4,
78:10, 79:1, 82:15,
83:9, 85:1, 85:6,
85:15, 86:1, 87:2,
87:8, 87:10, 87:13,
88:3, 88:8, 89:7,
90:3, 91:6, 92:5,
93:5, 93:10, 94:7,
94:12, 94:15, 95:3,
96:6, 96:11, 96:16,
96:18, 97:4, 97:9,
97:13, 97:17, 98:5,
98:14, 99:7, 99:15,
100:2, 102:5,
102:12, 102:15,
103:1, 103:4, 103:9,
104:11, 104:18,
105:15, 107:5,
107:10, 109:4,
110:15, 111:4,
111:7, 111:11,
111:14, 111:18,
112:4, 112:10,
113:4, 113:8,
113:12, 113:17,
116:6, 118:6,
118:10, 119:5,
119:10, 120:4,
120:10, 120:14,
121:11, 122:5,
122:13, 124:5,
125:4, 125:12,
125:18, 126:3,
129:8, 132:13,
132:16, 133:6,
134:17, 135:2,
135:6, 135:9,
136:13, 139:15,
141:18, 142:8,
143:4, 144:11,
144:15, 145:5,
145:11, 146:2,
146:9, 146:13,
147:3, 147:9,
147:17, 148:6,
148:8, 148:11,
151:9, 153:13,
154:16, 155:2,
157:9, 157:16,

157:18, 161:2,
161:14, 161:18,
162:7, 162:10,
162:13, 163:10,
163:14, 164:5,
165:11, 165:14,
166:4, 166:13,
171:4, 171:8,
171:11, 172:4,
175:17, 176:18,
177:4, 179:10,
180:3, 181:5,
181:15, 182:2,
182:9, 182:12,
183:4, 183:9,
184:18, 185:8,
185:13, 185:17,
190:16, 191:4,
191:8, 193:9, 194:6,
194:10, 195:13,
196:6, 198:2, 198:4,
198:7, 198:13,
198:17, 199:5,
199:16, 200:3,
201:5, 203:8,
203:11, 203:14,
204:1, 204:11,
204:14, 205:5,
205:10, 205:18,
206:9, 206:13,
207:2, 207:5, 209:6,
209:9, 209:14,
210:2, 214:10,
216:6, 217:5,
217:13, 218:7,
218:12, 219:1,
219:4, 219:12,
220:2, 221:9,
221:13, 222:10,
223:11, 227:5,
227:11, 230:11,
230:16, 231:4,
232:10, 233:4,
233:8, 233:16,
234:3, 234:14,
235:5, 236:1,
237:14, 238:5,
239:2, 239:11,
240:3, 242:6,
242:12, 243:5,
243:15, 243:18,
244:12, 245:6,
245:16, 246:2,
246:9, 246:13,

248:6, 248:9, 251:7,
 253:18, 255:1,
 256:4, 256:12,
 256:15, 258:6,
 258:12, 258:16,
 259:1, 259:6, 259:9,
 259:16, 260:2,
 262:7, 263:6,
 263:10, 263:14,
 266:10, 267:5,
 270:5, 271:15,
 272:1, 272:6,
 274:13, 275:2

Alexander ^[23] - 1:8,
 3:4, 5:3, 36:8, 54:3,
 90:7, 91:3, 92:7,
 93:3, 105:17, 107:3,
 118:12, 119:3,
 122:3, 180:5, 181:3,
 198:15, 199:3,
 216:8, 217:3,
 266:12, 267:3,
 275:4

alexander ^[1] - 53:12

ALLEN ^[2] - 267:9,
 267:14

Allen ^[2] - 267:9,
 267:10

alleviate ^[1] - 153:10

allow ^[21] - 18:16,
 56:7, 59:2, 65:5,
 65:11, 82:5, 85:10,
 89:14, 115:18,
 121:6, 123:5, 136:4,
 145:13, 148:16,
 154:8, 159:1,
 174:16, 202:18,
 203:3, 205:3,
 268:18

allowable ^[1] - 194:17

allowed ^[11] - 11:16,
 20:2, 34:7, 64:12,
 113:6, 129:1, 132:5,
 150:3, 202:16,
 242:4, 269:5

allowing ^[4] - 150:1,
 150:6, 151:5,
 166:16

allows ^[5] - 18:1,
 65:7, 127:16,
 141:15, 150:15

almost ^[7] - 100:2,
 127:7, 132:11,
 134:1, 169:9,

203:16, 239:16

alone ^[1] - 77:17

alterations ^[1] - 7:13

altering ^[1] - 206:14

alternative

^[1] - 208:10

amenable ^[1] - 154:17

amend ^[1] - 131:17

amended ^[3] - 58:5,

73:13, 76:5

amenity ^[1] - 17:11

Amory ^[3] - 2:6, 91:2,

91:12

amount ^[9] - 10:2,

17:4, 27:1, 38:4,

40:3, 43:7, 224:13,

239:14, 265:6

amounts ^[2] - 225:15,

241:10

ample ^[1] - 85:10

analysis ^[1] - 12:1

AND ^[1] - 275:18

AND/OR ^[1] - 277:14

ANDREA ^[35] - 19:9,

40:12, 41:3, 42:3,

42:9, 42:12, 43:9,

43:15, 43:18, 44:6,

44:10, 45:2, 45:18,

46:4, 48:7, 48:11,

50:14, 51:2, 60:10,

66:18, 76:17, 83:12,

83:15, 84:5, 86:14,

87:7, 116:5, 146:15,

146:18, 157:15,

195:12, 226:16,

241:5, 243:2, 243:6

Andrea ^[13] - 1:9, 3:5,

5:4, 54:4, 91:4,

93:4, 107:4, 119:4,

122:4, 181:4, 199:4,

217:4, 267:4

ANDREW

^[4] - 107:16, 108:15,

109:2, 109:11

Andrew ^[3] - 107:16,

114:13, 115:8

Andrew's ^[1] - 115:1

angle ^[2] - 18:2,

112:13

angles ^[1] - 26:1

Anne ^[2] - 95:17,

101:1

answer ^[3] - 60:16,

61:14, 244:10

ANY ^[2] - 277:13,
277:14

anyhow ^[3] - 67:10,
101:15, 102:4

anyway ^[6] - 26:8,
84:3, 98:6, 149:10,
240:17, 262:3

anyways ^[1] - 143:8

apartment ^[10] - 12:9,
12:10, 12:11, 65:15,
67:16, 143:6, 205:3,
205:6, 212:5, 212:7

Apartments ^[1] - 19:1

apartments ^[2] - 12:8,
69:8

apologizing
^[1] - 94:13

APPEAL ^[1] - 1:1

Appeal ^[1] - 46:15

appealing ^[4] - 17:18,
61:16, 225:9, 262:4

Appeals ^[4] - 3:8,
275:7, 276:5,
276:14

appear ^[3] - 42:15,
42:16, 177:15

appeared
^[2] - 195:17, 226:8

appearing ^[2] - 54:11,
217:11

applaud ^[1] - 176:15

applauded
^[1] - 135:15

applicable ^[2] - 71:3,
263:16

Applicant ^[3] - 76:3,
78:6, 82:1

applicant ^[8] - 6:4,
34:1, 54:12, 57:3,
217:12, 235:12,
252:10, 252:16

Applicant's
^[2] - 72:13, 85:13

applicants ^[1] - 59:8

application
^[17] - 40:1, 45:5,
47:8, 50:16, 55:12,
78:14, 115:11,
123:3, 133:15,
138:9, 166:17,
195:5, 211:7, 218:1,
223:17, 249:1,
252:15

applied ^[3] - 49:6,

137:7, 137:12
applies [3] - 138:8,
 173:16, 174:3
APPLY [1] - 277:13
apply [2] - 42:6,
 175:11
appreciate
 [4] - 21:18, 53:15,
 157:10, 166:15
appreciated [1] - 9:6
appreciation
 [1] - 26:2
approach [4] - 61:14,
 66:10, 131:3,
 228:17
appropriate
 [15] - 34:2, 39:4,
 78:13, 94:9, 149:3,
 160:5, 160:7, 165:1,
 231:1, 231:5,
 234:11, 235:12,
 235:17, 242:17
Appropriateness
 [2] - 8:4, 33:13
appropriateness
 [1] - 77:5
approval [5] - 8:1,
 8:3, 24:8, 104:6,
 254:10
approve [12] - 15:18,
 16:2, 16:3, 25:12,
 104:6, 133:1,
 155:13, 157:3,
 211:12, 212:15,
 213:9, 270:3
approved [13] - 25:17,
 33:3, 35:10, 84:14,
 96:4, 97:6, 101:8,
 104:8, 105:4,
 123:14, 146:5,
 154:2, 178:15
approves [1] - 254:9
approving [1] - 83:9
april [1] - 277:12
arbitrary [1] - 176:8
arborist [3] - 27:7,
 27:9, 27:10
architect [19] - 6:12,
 29:7, 34:4, 80:18,
 100:1, 101:12,
 102:7, 107:14,
 156:2, 167:12,
 181:14, 199:15,
 200:1, 200:2, 200:3,

200:9, 204:2, 216:2,
230:2

architects [1] - 95:10

Architects

[5] - 117:17, 139:7,
179:16, 267:13,
274:15

architectural

[5] - 10:3, 10:9,
10:16, 146:6, 273:6

Architectural

[1] - 6:13

architecture [1] - 7:14

area [34] - 10:1, 29:8,
42:17, 56:11, 58:13,
58:15, 67:15, 69:18,
71:16, 72:2, 75:2,
98:2, 98:3, 98:14,
108:6, 108:11,
113:3, 113:7, 123:6,
136:7, 136:9, 137:2,
140:1, 140:9,
175:13, 188:15,
188:16, 194:18,
227:8, 232:1, 232:2,
254:17, 264:18,
265:2

areas [2] - 8:9, 208:17

argue [2] - 77:9,
151:2

arguing [1] - 166:18

argument [4] - 49:14,
149:18, 150:5,
168:5

arguments [1] - 164:2

arise [1] - 237:10

arithmetic [1] - 10:17

Arlington [1] - 173:7

arrangement

[1] - 38:8

arrangements

[1] - 16:1

Art [1] - 127:10

Article [3] - 73:14,
76:5, 123:5

as-of-right [3] - 56:6,

76:4, 137:13

aspect [5] - 69:9,

136:14, 136:16,
243:2, 249:3

aspects [4] - 184:13,

189:13, 189:14,
215:13

assist [1] - 4:4

assistance [2] - 73:1,
146:4

Assistant [1] - 1:12

associated [3] - 17:7,
44:16, 237:2

Association

[3] - 179:7, 254:14,
257:1

association

[2] - 104:8, 158:8

assume [3] - 87:5,
161:14, 179:3

assumed [1] - 231:1

assuming

[1] - 153:18

assurance

[1] - 262:13

assurances

[1] - 160:17

assure [4] - 27:12,
38:10, 221:4,
228:18

assured [1] - 257:7

AT&T [1] - 119:12

attaches [1] - 202:17

attained [1] - 8:3

attempt [2] - 11:10,
13:16

attended [2] - 77:2,
158:13

attendees [1] - 3:18

attention [4] - 22:1,
51:10, 131:10,
268:7

attic [1] - 194:17

ATTORNEY

[176] - 5:11, 6:2,
6:15, 6:18, 15:6,
15:9, 16:8, 16:13,
16:18, 17:6, 18:11,
19:6, 19:13, 25:10,
26:13, 26:17, 30:7,
30:12, 33:5, 33:10,
33:16, 34:6, 34:9,
34:16, 35:4, 35:9,
37:4, 37:9, 37:15,
38:2, 39:2, 39:11,
39:18, 40:18, 41:4,
41:9, 41:13, 41:17,
42:5, 42:10, 42:13,
43:1, 44:15, 45:13,
46:2, 46:5, 46:12,
47:14, 48:5, 48:15,
49:3, 49:17, 50:4,

51:6, 53:14, 54:9,
55:9, 56:15, 58:2,
59:13, 59:16, 60:5,
60:9, 60:15, 61:9,
63:11, 64:7, 64:11,
66:6, 66:16, 67:2,
70:4, 70:10, 70:17,
71:4, 71:7, 73:12,
75:8, 75:13, 75:18,
76:10, 77:1, 78:5,
78:11, 79:6, 79:15,
81:17, 83:14, 84:2,
84:9, 85:4, 85:9,
86:5, 86:16, 87:9,
87:12, 88:6, 89:4,
90:5, 122:11,
122:14, 124:1,
124:7, 125:8,
125:13, 126:2,
126:9, 129:10,
132:14, 133:3,
133:8, 135:1, 135:4,
135:7, 135:10,
136:15, 142:2,
142:13, 142:16,
146:12, 154:11,
155:1, 164:8,
165:13, 172:7,
217:9, 217:16,
218:6, 218:9,
218:17, 219:6,
219:10, 219:15,
220:5, 221:3,
221:11, 221:15,
221:18, 222:5,
222:9, 222:12,
222:16, 223:13,
224:17, 225:1,
225:5, 226:18,
228:7, 229:4, 229:8,
230:13, 230:18,
231:12, 235:1,
235:6, 236:8,
237:17, 238:9,
239:3, 239:9,
239:13, 242:1,
242:8, 242:15,
243:7, 248:8, 251:4,
251:8, 254:2, 255:2,
255:17, 256:11,
258:9, 258:14,
259:18, 266:14
attorney [3] - 5:14,
122:16, 149:1

attorneys ^[1] - 167:4

attract ^[1] - 261:16

attractive

^[4] - 189:12, 249:8,
257:11, 269:14

Auburn ^[11] - 2:3, 5:7,

7:6, 16:12, 17:15,
18:18, 20:6, 24:13,
28:6, 29:4, 59:11

AUDIENCE

^[4] - 126:7, 139:11,
147:7, 148:2

audience ^[1] - 5:18

audio ^[1] - 3:11

AUER ^[18] - 199:14,

199:18, 200:2,
200:7, 200:17,
201:6, 203:10,
203:16, 205:1,
205:9, 205:11,
206:2, 206:4,
206:12, 206:16,
207:4, 209:8, 216:2

Auer ^[2] - 199:14,

216:1

August ^[10] - 86:2,

119:16, 120:3,
120:4, 120:7, 120:8,
120:16, 121:5,
277:6

authority ^[1] - 235:18

automatic ^[1] - 141:3

automobile

^[1] - 261:18

automobile-related

^[1] - 261:18

available ^[2] - 248:1,

260:11

Ave ^[63] - 94:2, 123:7,

123:8, 123:9, 124:9,
124:11, 124:14,
124:15, 125:1,
125:6, 125:11,
126:18, 127:1,
127:2, 127:7, 127:8,
127:10, 127:13,
127:18, 128:1,
128:4, 128:7,
128:14, 129:15,
129:18, 131:15,
132:3, 134:3, 134:6,
134:8, 134:14,
136:2, 136:6,
138:13, 138:14,

140:4, 141:14,
 142:5, 143:2,
 147:12, 147:14,
 147:15, 149:7,
 172:9, 172:10,
 172:16, 173:1,
 173:3, 173:5, 173:7,
 173:8, 173:9, 174:4,
 174:6, 175:9,
 175:10, 175:12,
 176:11, 176:13,
 217:6, 243:13

Avenue ^[18] - 1:6,
 2:10, 2:13, 2:14,
 5:15, 54:11, 107:15,
 122:6, 123:2,
 148:14, 149:6,
 149:14, 149:16,
 149:17, 155:8,
 156:12, 158:6,
 267:6

average ^[1] - 11:13

avoids ^[1] - 238:16

aware ^[4] - 15:11,
 30:9, 159:5, 193:18

awful ^[1] - 247:11

awkward ^[3] - 133:10,
 134:3, 165:4

Aye ^[22] - 36:4, 36:5,
 53:8, 53:9, 90:1,
 90:2, 105:13,
 105:14, 118:8,
 118:9, 121:9,
 121:10, 180:1,
 180:2, 198:11,
 198:12, 216:4,
 216:5, 266:8, 266:9,
 274:18, 275:1

B

B-E-E-R ^[1] - 31:12

B-R-A-N-D-O-N
^[1] - 158:5

BA-2 ^[2] - 134:5,
 142:14

baby ^[1] - 202:9

background
^[2] - 200:6, 200:18

backyard ^[2] - 77:17,
 190:6

bad ^[1] - 86:2

baffling ^[1] - 160:18

Baile ^[1] - 6:6

BAILE ^[1] - 6:6
balance ^[1] - 253:12
balconies ^[1] - 19:1
Baptist ^[1] - 210:9
bargain ^[1] - 151:3
bars ^[1] - 98:17
base ^[2] - 134:4,
 175:15
based ^[4] - 7:17, 12:4,
 105:6, 140:17
basement
^[16] - 55:17, 56:7,
 58:8, 58:11, 58:17,
 59:7, 60:2, 61:18,
 62:10, 65:7, 65:16,
 68:12, 71:10, 72:5,
 80:4, 81:13
basements ^[1] - 65:7
bases ^[1] - 110:13
basic ^[1] - 200:12
basis ^[10] - 53:3,
 77:14, 90:1, 117:12,
 118:7, 179:12,
 197:13, 215:16,
 266:4, 274:5
bath ^[1] - 109:8
bathroom
^[4] - 187:14, 187:18,
 238:12, 238:13
bay ^[6] - 14:14,
 136:10, 149:16,
 150:15, 150:18,
 151:5
bays ^[9] - 123:6,
 135:18, 136:4,
 141:16, 143:12,
 143:15, 190:13
BEAG ^[1] - 6:6
Beag ^[1] - 6:6
bear ^[1] - 44:17
beautiful ^[1] - 250:3
became ^[1] - 110:8
become ^[3] - 64:17,
 82:12, 237:8
becomes ^[2] - 150:15,
 193:5
bed ^[1] - 267:16
bedroom ^[21] - 15:16,
 16:7, 16:10, 19:5,
 19:6, 108:16, 109:7,
 144:3, 144:8,
 144:12, 145:8,
 150:11, 150:16,
 165:9, 174:14,

174:17, 175:1,
 175:3, 187:11,
 187:12, 188:1
bedrooms [9] - 11:9,
 108:13, 108:18,
 109:18, 115:13,
 116:1, 144:14,
 163:9, 175:1
Beer [2] - 31:1, 31:12
beer [1] - 31:5
beg [1] - 95:18
began [1] - 128:11
begin [2] - 9:13, 58:14
beginning [2] - 3:17,
 158:10
behalf [4] - 6:4, 54:11,
 122:18, 217:11
behind [6] - 13:6,
 19:2, 114:6, 127:3,
 127:5, 149:13
behooves [1] - 170:9
believer [1] - 14:15
BELL [3] - 147:11,
 148:4, 148:7
Bell [1] - 147:11
belongs [1] - 102:4
below [5] - 11:16,
 17:9, 61:2, 64:12,
 198:6
beneficial [1] - 28:10
beneficiary
 [1] - 247:6
benefit [5] - 82:3,
 88:10, 145:6,
 151:15, 183:11
Berkeley [1] - 28:18
Berkshire [3] - 2:4,
 54:6, 55:11
best [3] - 227:4,
 237:12, 267:18
better [11] - 68:6,
 76:18, 132:18,
 151:3, 151:12,
 152:4, 152:7, 195:3,
 196:16, 208:10,
 253:9
between [16] - 12:1,
 19:16, 24:2, 39:16,
 47:15, 81:4, 95:10,
 134:12, 136:7,
 156:10, 170:5,
 176:9, 201:7,
 210:12, 237:5,
 240:14

beyond ^[3] - 143:13,
230:5

big ^[7] - 5:18, 16:6,
24:16, 66:1, 191:16,
241:6, 252:8

bigger ^[1] - 134:15

bin ^[1] - 263:5

biodegradable
^[1] - 262:9

biodegradables
^[1] - 226:3

bit ^[18] - 10:13, 12:5,
15:14, 18:17, 19:15,
100:9, 110:16,
152:10, 153:11,
184:11, 193:11,
193:15, 200:9,
200:15, 208:13,
236:14, 249:13,
252:12

black ^[1] - 189:2

blank ^[2] - 71:3,
103:13

block ^[1] - 7:7

blocks ^[2] - 192:7,
225:17

blowup ^[1] - 140:10

blue ^[1] - 20:15

board ^[5] - 8:5, 21:13,
131:14, 139:4,
146:16

BOARD ^[1] - 1:1

Board ^[91] - 3:8, 5:12,
6:3, 7:3, 14:2,
15:18, 19:11, 22:6,
25:8, 29:13, 34:12,
46:15, 47:3, 50:6,
50:10, 56:17, 59:9,
70:6, 70:8, 72:6,
72:7, 72:8, 72:12,
74:13, 75:16, 77:14,
81:6, 81:18, 83:5,
91:8, 97:10, 97:11,
102:14, 103:2,
105:5, 105:11,
113:10, 121:7,
122:16, 128:12,
128:17, 129:4,
129:7, 130:10,
130:14, 131:4,
135:8, 146:14,
154:10, 157:4,
157:12, 158:13,
159:17, 164:18,

165:16, 167:5,
 168:13, 169:1,
 169:10, 176:2,
 176:6, 182:13,
 183:10, 183:16,
 185:14, 191:5,
 195:15, 195:18,
 205:17, 207:6,
 207:15, 209:12,
 211:17, 214:7,
 217:10, 222:17,
 223:8, 235:3,
 235:15, 236:3,
 243:16, 253:12,
 259:12, 268:17,
 270:3, 270:6, 271:1,
 275:7, 276:5,
 276:14

Board's ^[2] - 211:10,
 235:18

boards ^[3] - 146:17,
 242:13

body ^[2] - 35:2, 35:6

Boggs ^[1] - 86:9

bootstrap ^[1] - 66:3

bother ^[2] - 192:13,
 192:14

bought ^[2] - 96:2,
 158:11

bound ^[1] - 84:2

boxes ^[3] - 19:16,
 188:13, 191:3

Boyes ^[1] - 101:11

Boyes-Watson
^[1] - 101:11

brand ^[1] - 58:11

Brandon ^[7] - 158:3,
 158:5, 163:11,
 166:6, 171:5, 244:3,
 246:10

BRANDON

^[24] - 158:4, 161:4,
 161:17, 162:2,
 162:9, 162:11,
 162:15, 163:12,
 163:15, 166:12,
 166:15, 170:7,
 170:12, 171:1,
 171:7, 179:8, 244:6,
 245:2, 245:8,
 245:18, 246:8,
 258:4, 258:8,
 258:18

Brandon's

[1] - 245:17

break [1] - 160:8

BRENDAN

[38] - 34:18, 35:8,
43:4, 43:13, 43:16,
44:13, 50:15, 51:4,
66:13, 67:3, 68:1,
68:11, 68:14, 68:17,
69:3, 98:10, 98:17,
99:18, 101:7,
101:18, 102:3,
111:17, 112:8,
112:11, 145:16,
170:1, 170:8,
170:17, 218:4,
220:7, 221:17,
222:3, 222:6, 230:8,
231:9, 256:10,
259:15, 271:2

Brendan [18] - 1:8,

3:4, 5:3, 54:3, 91:3,
93:3, 97:10, 107:3,
119:3, 122:3, 181:3,
199:3, 217:3, 249:2,
256:16, 259:13,
267:3, 271:16

Brett [1] - 218:10

BRETT [29] - 218:15,

219:3, 219:8,
219:11, 219:14,
219:18, 224:16,
227:9, 228:1,
231:14, 232:13,
233:6, 233:9, 234:2,
234:5, 239:7,
239:15, 240:5,
241:7, 244:10,
244:13, 245:4,
245:9, 246:4,
246:11, 262:6,
263:4, 263:7,
263:13

Brewer [1] - 24:15

brick [1] - 132:7

brief [2] - 91:7, 96:1

briefly [4] - 93:18,

123:12, 128:8,
172:7

bring [9] - 66:10,

99:5, 132:5, 193:7,
201:17, 207:12,
226:10, 226:11,
227:3

bringing [1] - 201:18

brink ^[1] - 207:13
BRISTOL ^[1] - 277:1
broad ^[1] - 187:6
broader ^[1] - 265:1
brought ^[1] - 152:15
BROWN ^[14] - 107:9,
 107:13, 108:3,
 108:16, 109:13,
 111:2, 111:6,
 111:10, 111:13,
 111:16, 112:18,
 113:2, 113:5, 118:5
Brown ^[2] - 107:13,
 117:17
buffer ^[3] - 126:15,
 127:5, 143:1
buffet ^[1] - 226:16
build ^[10] - 24:9,
 125:5, 137:16,
 168:12, 208:9,
 212:11, 213:4,
 269:1, 269:5
builders ^[1] - 95:10
Building ^[5] - 66:11,
 80:10, 91:17, 137:7,
 137:10
building ^[81] - 20:9,
 20:13, 20:15, 20:16,
 21:1, 30:18, 39:14,
 47:15, 58:16, 60:18,
 61:2, 62:11, 62:13,
 63:9, 64:9, 64:12,
 64:18, 65:10, 69:7,
 69:12, 69:17, 72:4,
 81:15, 82:13, 84:12,
 84:13, 97:1, 101:14,
 102:4, 108:7, 110:8,
 114:16, 130:4,
 132:8, 133:5,
 133:11, 134:11,
 134:15, 136:2,
 137:4, 137:6,
 137:12, 137:14,
 140:14, 140:15,
 140:16, 141:7,
 141:8, 143:6, 143:7,
 143:11, 143:17,
 146:1, 149:11,
 151:17, 151:18,
 152:6, 152:7,
 152:13, 153:7,
 154:14, 155:15,
 156:1, 156:4,
 156:11, 158:12,

169:12, 174:13,
 175:4, 175:16,
 177:11, 189:1,
 189:5, 189:18,
 197:1, 202:11,
 202:17, 243:8,
 243:11, 249:12
buildings ^[14] - 20:18,
 69:17, 114:15,
 139:9, 139:18,
 140:1, 140:3, 140:6,
 140:8, 149:13,
 156:18, 220:17,
 235:8, 261:1
built ^[9] - 21:8, 59:5,
 65:2, 150:12,
 152:13, 192:3,
 201:1, 201:10,
 268:12
burned ^[2] - 57:16,
 67:12
burning ^[1] - 202:10
burnt ^[1] - 70:12
busier ^[1] - 232:2
Business
^[6] - 127:15, 140:11,
 143:1, 254:14,
 256:18
business ^[16] - 51:8,
 126:12, 142:17,
 143:7, 173:4, 223:2,
 225:17, 231:18,
 232:3, 233:14,
 236:18, 242:10,
 245:10, 246:12,
 248:16, 253:16
businesses
^[2] - 236:14, 243:11
busy ^[4] - 87:1,
 244:16, 251:16,
 264:18
BZA ^[3] - 15:3,
 119:14, 194:15
BZA-009632 ^[2] - 2:6,
 91:3
BZA-013173-2017
^[2] - 2:9, 119:2
BZA-013489-2017
^[2] - 2:3, 5:2
BZA-013611-2017
^[2] - 2:4, 54:2
BZA-013661-2017
^[2] - 2:7, 93:2
BZA-013671-2017

[2] - 2:8, 107:2

BZA-013690-2017

[2] - 2:10, 122:2

BZA-013691-2017

[2] - 2:12, 199:2

BZA-013701-2017

[2] - 2:13, 217:2

BZA-013707-2017

[2] - 2:11, 181:2

BZA-013725-2017

[2] - 2:14, 267:2

C

C-1 [1] - 201:8

calculations

[1] - 183:1

calendar [1] - 247:16

CAMBRIDGE [1] - 1:2

Cambridge [17] - 1:7,

29:2, 29:4, 94:3,

107:17, 122:17,

128:15, 150:12,

156:4, 158:7, 173:6,

179:6, 179:8, 212:8,

213:1, 267:13

cannot [3] - 52:2,

214:1, 264:11

capture [1] - 232:5

CAPTURING

[1] - 1:16

care [2] - 257:8,

257:12

cared [2] - 102:17,

185:1

Carla [1] - 213:15

Carlone [4] - 77:3,

132:1, 155:8, 160:1

CARLONE [1] - 155:7

carlone [2] - 157:10,

177:13

Carlone's [1] - 146:4

cars [2] - 39:9, 125:10

cart [3] - 170:15,

170:18, 171:3

Case [11] - 5:2, 54:2,

91:2, 93:2, 107:2,

119:2, 122:2, 181:2,

199:2, 217:2, 267:2

CASE [1] - 2:2

case [77] - 5:5, 5:6,

8:16, 11:3, 12:15,

13:4, 15:3, 22:2,

26:7, 47:4, 47:10,

47:11, 47:17, 48:3,
 48:6, 48:8, 48:13,
 48:15, 49:5, 54:6,
 55:16, 59:6, 59:10,
 59:14, 60:17, 61:4,
 61:5, 61:16, 72:10,
 72:13, 77:10, 77:14,
 77:16, 85:2, 85:8,
 87:14, 88:4, 89:18,
 90:4, 93:6, 107:6,
 119:6, 119:14,
 119:18, 120:5,
 120:6, 121:12,
 122:6, 127:13,
 127:18, 128:2,
 154:8, 154:18,
 157:13, 158:1,
 159:16, 165:17,
 165:18, 166:1,
 166:3, 166:7,
 168:10, 173:3,
 181:6, 183:15,
 184:1, 184:2, 184:4,
 194:15, 199:6,
 217:6, 247:7, 267:6

case-by-case

[1] - 77:14

cases [8] - 4:10, 4:13,
 14:2, 26:7, 33:15,
 231:8, 241:3

cast [1] - 263:2

catering [1] - 245:5

Catherine [2] - 277:2,
 277:9

catty [1] - 94:3

catty-corner

[1] - 94:3

caused [1] - 208:7

causes [1] - 268:15

ceiling [5] - 61:18,
 62:5, 62:13, 63:4,
 80:4

ceilings [3] - 63:2,

63:5, 191:15

Center [2] - 1:5,

127:11

centuries [1] - 21:8

certain [6] - 10:9,

19:18, 20:7, 138:15,
 247:6, 257:18

certainly [15] - 18:9,

20:8, 82:16, 84:10,
 167:4, 196:16,
 225:9, 229:9, 231:5,

232:4, 236:12,
242:17, 247:10,
253:9, 269:14

Certificate [2] - 8:4,
33:13

CERTIFICATION

[1] - 277:13

Certified [2] - 277:2,
277:10

certify [1] - 277:3

CERTIFYING

[1] - 277:14

chair [6] - 54:10, 70:5,
81:17, 158:4,
217:10, 258:4

Chair [50] - 1:8, 1:8,
3:7, 3:10, 3:14,
3:18, 31:18, 32:17,
35:17, 36:3, 51:15,
53:4, 54:5, 55:10,
87:13, 93:5, 104:18,
105:7, 105:10,
107:5, 116:6, 117:6,
117:13, 117:18,
119:5, 120:5, 122:5,
174:14, 177:5,
178:11, 179:13,
179:18, 181:5,
195:15, 196:8,
197:14, 198:10,
199:5, 214:12,
215:10, 215:17,
216:3, 217:5, 264:7,
266:5, 267:5,
272:15, 273:18,
274:6, 274:17

Chairman [3] - 5:12,
77:4, 122:15

challenge

[2] - 138:10, 139:2

challenges

[2] - 123:16, 124:2

challenging

[2] - 130:17, 130:18

CHANGE [6] - 276:7,
276:8, 276:9,
276:10, 276:11,
276:12

change [21] - 34:1,
61:8, 61:9, 62:8,
63:13, 71:14, 76:11,
84:4, 88:13, 89:6,
89:11, 96:5, 117:10,
175:14, 208:3,

221:5, 221:10,
 230:1, 264:15,
 274:10, 276:5
changed [4] - 156:2,
 167:11, 249:5,
 261:7
changes [7] - 52:6,
 102:2, 160:13,
 211:8, 211:16,
 222:4, 276:15
changing [1] - 188:4
character [8] - 10:3,
 11:10, 52:7, 150:7,
 150:17, 189:4,
 201:10, 264:16
characteristics
 [3] - 78:12, 220:17,
 261:1
characterization
 [2] - 66:8, 164:11
characterized
 [1] - 178:17
charge [1] - 131:12
Charles [1] - 152:1
CHARLIE [2] - 267:9,
 267:14
Charlie [3] - 267:9,
 267:10, 271:6
chase [2] - 163:11,
 163:12
checkboxes
 [1] - 252:16
checked [2] - 188:13,
 191:3
checking [1] - 45:15
Chicago [1] - 184:8
chicken [1] - 224:14
chief [1] - 210:7
children [2] - 109:3,
 268:2
chimney [2] - 34:3,
 34:12
choice [1] - 64:5
Christian [1] - 210:7
chunk [1] - 252:8
church [3] - 203:13,
 203:15, 210:8
Church [9] - 56:2,
 77:18, 210:9, 239:4,
 243:13, 250:11,
 251:2, 255:18,
 256:5
Churchill [1] - 147:15
circulation [1] - 12:6

circumstances

[1] - 208:12

citation [2] - 49:15,
50:8

cite [2] - 45:11, 47:8

cites [1] - 167:6

citizen [1] - 4:5

citizens [3] - 52:15,
121:6, 265:17

City [9] - 58:5, 73:10,
74:5, 155:12,
168:16, 177:12,
194:13, 247:16,
254:8

CITY [1] - 1:2

city [15] - 4:6, 52:15,
82:18, 117:11,
121:6, 149:2, 149:5,
172:17, 178:13,
212:15, 213:8,
225:16, 236:10,
261:10, 265:17

City's [5] - 72:17,
82:6, 82:9, 84:14,
242:14

citywide [2] - 173:16,
174:3

civic [1] - 135:13

clapboard [1] - 14:13

clarification

[2] - 248:14, 249:14

classic [1] - 14:12

clean [1] - 100:14

cleaner [1] - 208:10

Cleaning [1] - 123:15

clear [4] - 45:2, 50:2,
58:15, 130:16

clearly [4] - 17:18,
39:7, 236:18, 263:8

clerk [1] - 158:6

client [3] - 73:3,
86:18, 88:10

client's [1] - 164:6

clientele [1] - 225:18

clients [2] - 161:15,
162:8

close [17] - 29:11,
71:12, 72:17,
104:14, 124:18,
128:17, 137:9,
153:9, 162:18,
169:6, 172:5,
175:18, 194:11,
195:9, 214:6, 233:2,

272:13
closed [5] - 200:11,
 234:4, 234:17,
 251:4, 251:7
closer [2] - 51:9,
 174:9
closet [3] - 108:14,
 108:15, 108:16
closing [2] - 237:6,
 237:11
cloth [1] - 98:2
code [6] - 63:13, 98:1,
 190:8, 201:13,
 202:1, 202:5
Code [2] - 66:12,
 80:11
codes [1] - 202:1
coffee [1] - 233:10
cognizant [1] - 194:5
collaborate [1] - 27:5
collaboration
 [2] - 9:12, 137:4
color [5] - 160:1,
 220:14, 249:6,
 260:16, 261:4
colored [1] - 189:3
Columbia [4] - 210:9,
 213:14, 213:17,
 214:2
comfortable
 [4] - 118:4, 188:3,
 196:7, 211:18
coming [11] - 68:7,
 111:14, 112:6,
 112:9, 151:12,
 152:3, 157:10,
 232:4, 240:2,
 241:14, 247:1
commend [1] - 152:8
comment [8] - 26:11,
 33:18, 101:2,
 102:12, 193:6,
 193:14, 249:4,
 271:3
commented
 [1] - 158:12
comments [18] - 22:5,
 29:12, 74:13, 103:2,
 113:9, 146:14,
 172:6, 177:1, 191:5,
 195:6, 195:8,
 209:12, 243:16,
 253:17, 256:8,
 270:6, 271:1,

271:17

commercial

[7] - 72:18, 123:16,
130:3, 140:6, 159:2,
167:10, 168:11

Commission

[10] - 14:3, 15:1,
23:4, 34:5, 160:4,
236:15, 237:3,
237:13, 254:10,
277:11

Commissioner

[1] - 1:12

committee

[4] - 161:11, 235:11,
239:1, 240:7

Committee

[12] - 77:3, 77:4,
155:9, 155:11,
158:7, 226:9,
233:17, 247:8,
247:12, 257:6,
258:5, 258:17

Common [1] - 231:2

common [4] - 17:11,
99:5, 110:3, 113:7

COMMONWEALTH

[1] - 277:1

communicate

[1] - 211:9

communicated

[1] - 161:15

communication

[4] - 27:14, 33:6,
210:14, 258:5

community

[4] - 81:12, 176:16,
257:7, 257:10

Community

[1] - 133:15

compact [2] - 205:14,

208:15

company [1] - 223:3

comparable

[1] - 208:16

comparison

[1] - 138:12

compatibility

[1] - 229:17

compatible [3] - 7:14,

220:15, 260:17

complaints

[1] - 247:18

complete

[2] - 212:16, 213:10

completed [1] - 24:11

completely

[6] - 143:17, 158:15,
177:3, 191:14,
192:7, 250:14

completes

[2] - 271:10, 271:13

compliance [1] - 53:6

compliant [10] - 8:13,

8:15, 11:18, 37:11,

38:6, 110:18, 111:3,

111:5, 190:8,

270:13

complied [2] - 72:2,

113:2

complies [4] - 40:14,

112:14, 238:7,

263:15

comply [8] - 36:15,

40:13, 40:15, 41:1,

142:10, 222:11,

238:3, 264:4

complying [1] - 48:18

Comprehensive

[1] - 78:8

compromise

[4] - 131:11, 131:17,

133:12, 158:18

concept [2] - 84:8,

172:12

concern [11] - 21:2,

23:15, 27:15, 39:11,

41:11, 51:7, 81:5,

155:18, 178:16,

240:12, 247:3

concerned [5] - 17:3,

27:16, 91:15, 163:3,

235:8

concerns [12] - 16:1,

16:2, 17:7, 152:9,

152:11, 152:14,

153:10, 154:13,

159:14, 211:6,

238:16, 255:4

conclude [1] - 156:14

concluded

[1] - 226:13

concluding

[2] - 223:2, 258:10

condense

[1] - 240:10

condensers

[1] - 160:16

condition ^[13] - 28:7,
 35:18, 40:5, 40:7,
 82:10, 105:8,
 117:14, 157:4,
 179:14, 197:15,
 215:18, 274:7,
 274:13

conditioner
^[1] - 160:15

conditions ^[6] - 71:9,
 87:16, 89:17, 120:7,
 176:14, 206:7

condo ^[4] - 79:6,
 79:10, 104:7, 104:8

condos ^[1] - 145:9

conduct ^[1] - 3:16

confirm ^[1] - 97:5

conflict ^[1] - 156:7

conforming ^[12] - 9:3,
 13:5, 41:2, 41:5,
 70:12, 73:15, 74:9,
 75:4, 116:17, 197:3,
 215:4, 273:11

conformities
^[1] - 75:3

conformity ^[1] - 8:9

confrontation
^[1] - 155:18

confusing ^[1] - 38:14

confusion ^[1] - 102:6

congestion ^[9] - 52:5,
 252:3, 253:3, 253:5,
 253:15, 264:14,
 264:17, 265:3

connected ^[1] - 130:2

connecting
^[1] - 172:10

connection
^[2] - 19:16, 188:12

cons ^[1] - 149:5

consequence
^[3] - 64:8, 70:8, 79:4

consequences
^[1] - 212:1

Conservation
^[3] - 14:3, 14:18,
 23:4

conservation
^[2] - 9:13, 14:6

consider ^[1] - 39:3

consideration
^[5] - 149:4, 195:6,
 211:10, 227:18,
 235:12

considerations

[1] - 252:6

considers [1] - 192:9

consist [2] - 12:10,
149:12

consistency

[1] - 95:12

consistent [5] - 11:1,

100:18, 141:13,
173:13, 271:7

consists [1] - 186:4

Constantine

[13] - 1:8, 3:4, 5:3,
54:3, 91:3, 93:3,
107:3, 119:3, 122:3,
181:3, 199:3, 217:3,
267:3

CONSTANTINE

[332] - 3:7, 5:5, 5:16,
15:4, 15:8, 15:13,
16:11, 16:16, 17:2,
18:9, 19:3, 19:8,
19:10, 20:4, 21:4,
21:11, 21:15, 22:9,
23:1, 25:4, 25:11,
25:15, 26:10, 26:16,
27:18, 28:2, 28:12,
28:16, 30:14, 31:13,
33:7, 33:14, 33:17,
34:8, 34:14, 35:13,
36:6, 36:10, 37:2,
37:7, 37:12, 38:1,
38:13, 39:10, 39:17,
40:8, 41:7, 45:1,
45:5, 47:6, 48:1,
48:9, 48:17, 49:9,
49:18, 50:12, 50:17,
51:11, 53:10, 54:5,
54:18, 55:5, 55:7,
57:9, 59:10, 59:15,
59:18, 60:6, 65:13,
67:17, 68:4, 70:1,
70:7, 70:15, 71:2,
71:6, 73:6, 74:12,
74:16, 75:11, 76:6,
76:11, 76:15, 78:4,
78:10, 79:1, 82:15,
83:9, 85:1, 85:6,
85:15, 86:1, 87:2,
87:8, 87:10, 87:13,
88:3, 88:8, 89:7,
90:3, 91:6, 92:5,
93:5, 93:10, 94:7,
94:12, 94:15, 95:3,

96:6, 96:11, 96:16,
96:18, 97:4, 97:9,
97:13, 97:17, 98:5,
98:14, 99:7, 99:15,
100:2, 102:5,
102:12, 102:15,
103:1, 103:4, 103:9,
104:11, 104:18,
105:15, 107:5,
107:10, 109:4,
110:15, 111:4,
111:7, 111:11,
111:14, 111:18,
112:4, 112:10,
113:4, 113:8,
113:12, 113:17,
116:6, 118:6,
118:10, 119:5,
119:10, 120:4,
120:10, 120:14,
121:11, 122:5,
122:13, 124:5,
125:4, 125:12,
125:18, 126:3,
129:8, 132:13,
132:16, 133:6,
134:17, 135:2,
135:6, 135:9,
136:13, 139:15,
141:18, 142:8,
143:4, 144:11,
144:15, 145:5,
145:11, 146:2,
146:9, 146:13,
147:3, 147:9,
147:17, 148:6,
148:8, 148:11,
151:9, 153:13,
154:16, 155:2,
157:9, 157:16,
157:18, 161:2,
161:14, 161:18,
162:7, 162:10,
162:13, 163:10,
163:14, 164:5,
165:11, 165:14,
166:4, 166:13,
171:4, 171:8,
171:11, 172:4,
175:17, 176:18,
177:4, 179:10,
180:3, 181:5,
181:15, 182:2,
182:9, 182:12,

183:4, 183:9,
184:18, 185:8,
185:13, 185:17,
190:16, 191:4,
191:8, 193:9, 194:6,
194:10, 195:13,
196:6, 198:2, 198:4,
198:7, 198:13,
198:17, 199:5,
199:16, 200:3,
201:5, 203:8,
203:11, 203:14,
204:1, 204:11,
204:14, 205:5,
205:10, 205:18,
206:9, 206:13,
207:2, 207:5, 209:6,
209:9, 209:14,
210:2, 214:10,
216:6, 217:5,
217:13, 218:7,
218:12, 219:1,
219:4, 219:12,
220:2, 221:9,
221:13, 222:10,
223:11, 227:5,
227:11, 230:11,
230:16, 231:4,
232:10, 233:4,
233:8, 233:16,
234:3, 234:14,
235:5, 236:1,
237:14, 238:5,
239:2, 239:11,
240:3, 242:6,
242:12, 243:5,
243:15, 243:18,
244:12, 245:6,
245:16, 246:2,
246:9, 246:13,
248:6, 248:9, 251:7,
253:18, 255:1,
256:4, 256:12,
256:15, 258:6,
258:12, 258:16,
259:1, 259:6, 259:9,
259:16, 260:2,
262:7, 263:6,
263:10, 263:14,
266:10, 267:5,
270:5, 271:15,
272:1, 272:6,
274:13, 275:2

constituencies

[1] - 178:13
constrained [1] - 78:9
construct [5] - 8:2,
 57:4, 103:16,
 194:16, 194:18
constructed
 [1] - 235:9
construction
 [6] - 23:16, 27:12,
 27:17, 186:5,
 202:15, 203:3
consult [1] - 160:3
consumption
 [1] - 262:11
contacted
 [1] - 110:11
contain [1] - 224:6
contains [2] - 7:11,
 82:14
contemplating
 [1] - 252:11
contest [1] - 170:9
context [6] - 20:6,
 67:11, 129:11,
 200:9, 207:11,
 208:5
continuance
 [3] - 82:2, 119:13,
 164:10
continue [12] - 48:3,
 87:14, 120:5, 154:8,
 157:13, 158:1,
 159:16, 166:3,
 166:7, 184:2, 184:9,
 211:9
continued [10] - 4:9,
 4:12, 26:7, 52:8,
 88:5, 88:12, 90:4,
 121:12, 265:8
continuing
 [5] - 89:18, 154:18,
 165:17, 166:1,
 268:9
contractor
 [2] - 91:15, 267:11
contribute [1] - 14:16
control [3] - 54:16,
 69:6, 169:15
CONTROL
 [1] - 277:14
controlled
 [1] - 133:18
controls [1] - 140:17
convenience

[1] - 86:12
convenient
 [1] - 262:15
conveniently
 [1] - 84:16
conventional
 [1] - 61:12
conversation
 [2] - 29:16, 80:18
conversations
 [2] - 15:10, 192:15
convinced [1] - 160:8
convincing
 [1] - 236:15
cooked [2] - 224:15
cooking [1] - 224:13
cool [1] - 98:7
cooling [1] - 65:6
cooperative
 [1] - 255:4
cooperatively
 [1] - 236:10
copy [4] - 73:12,
 148:1, 148:5,
 166:17
corner [18] - 10:5,
 18:3, 18:4, 20:10,
 94:3, 124:14,
 129:12, 138:4,
 211:2, 211:3,
 212:13, 213:7,
 250:3, 250:5,
 253:11, 256:1,
 256:6
corners [1] - 236:11
correct [6] - 16:13,
 25:13, 66:17, 77:12,
 80:7, 145:15
Correct [1] - 182:6
corrected [1] - 182:5
correction [1] - 276:6
corrections
 [1] - 276:15
correctly [2] - 46:18,
 109:6
correspondence
 [1] - 113:18
cottage [2] - 19:18,
 22:16
cottage-style
 [1] - 19:18
Council [7] - 58:5,
 70:10, 70:11, 73:10,
 155:12, 168:17,

254:8

Councillor

[3] - 146:4, 177:13,
194:13

COUNCILLOR

[1] - 155:7

councillor [3] - 77:3,
131:18, 160:1

Councillors

[1] - 155:14

counseled

[1] - 130:10

counted [1] - 17:10

country [1] - 248:14

couple [3] - 129:6,
241:9, 244:6

course [8] - 23:16,
42:8, 55:10, 85:13,
157:14, 165:18,
223:18, 238:3

covenant [2] - 82:4,
83:16

covenants [1] - 84:10

cover [1] - 9:16

covered [3] - 23:12,
226:4

crawl [1] - 98:4

create [11] - 11:8,
18:2, 56:4, 57:5,
66:4, 83:1, 101:4,
133:10, 133:12,
255:10, 260:10

created [7] - 52:12,
72:14, 134:7, 144:3,
175:10, 221:6,
265:15

creates [5] - 48:8,
126:11, 127:4,
174:12, 178:5

creating [8] - 73:1,
77:6, 77:7, 81:13,
98:2, 109:6, 139:2,
253:4

creation [2] - 11:14,
56:9

credit [1] - 51:7

Crescent [7] - 2:8,
107:6, 108:5, 114:6,
114:10, 114:14,
115:10

crescent [1] - 107:17

crest [3] - 30:17, 31:7,
31:12

criteria [14] - 78:14,

223:17, 223:18,
 226:2, 228:8,
 228:10, 228:11,
 229:16, 235:2,
 238:1, 238:16,
 253:2, 253:3,
 253:12
critical [2] - 228:12,
 246:11
criticism [2] - 46:7,
 228:17
crossed [1] - 249:1
crossing [1] - 88:16
crowd [1] - 232:9
crowded [1] - 69:2
Crown [5] - 7:9, 8:3,
 20:6, 23:3, 33:4
cubicles [1] - 269:3
cuisine [2] - 223:5,
 229:13
curb [8] - 123:13,
 124:3, 124:12,
 124:16, 124:18,
 125:1, 142:6
curious [4] - 24:3,
 30:17, 31:10,
 234:14
current [13] - 13:10,
 32:9, 55:1, 77:8,
 88:17, 159:10,
 161:13, 201:18,
 202:1, 221:6, 249:6,
 261:4, 273:4
cut [8] - 124:9,
 124:10, 124:15,
 125:1, 142:6,
 163:10, 171:5
cut-through
 [1] - 124:10
cuts [6] - 123:13,
 124:3, 124:12,
 124:16, 125:1,
 174:1
CVS [4] - 250:17,
 251:1, 251:8, 256:2
Cynthia [1] - 114:9

D

d/b/a [1] - 218:16
Daglian [1] - 1:12
daily [1] - 239:17
damaged [1] - 202:14
dangerous [1] - 208:7

DANIELLE

[3] - 181:11, 184:14,
185:1

Danielle [5] - 181:12,
184:11, 185:9,
187:13, 194:16

DANSTER [1] - 28:4

Danster [1] - 28:4

dark [1] - 99:10

date [13] - 4:11,
85:16, 87:5, 88:13,
89:6, 119:17, 120:1,
120:16, 120:18,
179:16, 198:2,
198:3, 276:6

Date [2] - 2:3, 2:5

dated [1] - 197:18

DAVID [2] - 267:12,
274:12

David [1] - 267:12

Davis [6] - 139:7,
223:7, 226:1,
231:16, 240:6,
248:11

daylighting

[1] - 99:10

days [4] - 88:12,
88:18, 89:1, 120:18

de [1] - 213:12

DE [1] - 213:13

dead [1] - 170:11

deal [2] - 21:16, 268:4

dealing [3] - 138:10,
178:5, 268:10

deals [1] - 37:17

decades [2] - 207:14,
208:2

decide [2] - 22:2,
211:15

decided [4] - 159:13,
161:7, 161:16,
161:18

decision [6] - 87:18,
120:12, 158:2,
169:3, 179:4,
235:14

deck [12] - 15:15,
16:17, 16:18, 17:4,
18:7, 19:17, 20:13,
190:9, 192:1, 192:5,
193:11, 193:18

deck's [1] - 16:6

decks [3] - 17:9,
18:13, 192:9

dedication

[1] - 210:10

deep [1] - 174:7**deeper** [1] - 11:12**defect** [2] - 47:10,
47:13**defer** [1] - 47:2**definitely**

[3] - 150:17, 229:14,
234:8

definition [1] - 136:11**definitions** [1] - 9:17**degradation**

[1] - 208:8

delicious [1] - 257:17**delighted** [1] - 269:18**deliver** [1] - 245:8**delivered** [2] - 243:4,
276:2**deliveries**

[5] - 239:16, 240:1,
240:16, 241:5,
257:12

delivery [4] - 243:1,

245:3, 245:10

delve [1] - 67:6**demand** [1] - 72:16**demographic**

[1] - 225:9

demolition [1] - 40:5**Denise** [1] - 256:17**DENNIS** [1] - 155:7**Dennis** [1] - 155:7**dense** [1] - 108:11**density** [7] - 21:16,

71:12, 71:16,
109:18, 115:14,
127:6, 127:17

deny [1] - 163:18**denying** [1] - 169:2**Department**

[4] - 40:10, 84:15,
254:8, 276:3

depth [5] - 41:18,

138:15, 138:16,
138:17, 139:1

derogate [4] - 32:15,

53:1, 215:8, 266:2

derogates [1] - 168:6**derogating**

[4] - 117:4, 178:9,
197:8, 273:16

descending

[3] - 211:1, 212:12,

213:6

describe [1] - 239:14

described

[4] - 148:17, 211:6,
212:14, 213:8

describing

[1] - 140:18

description

[2] - 21:18, 242:2

design [32] - 9:8,

9:15, 13:14, 13:16,
14:15, 15:17, 16:5,
18:16, 20:7, 21:10,
21:13, 22:1, 28:9,
82:6, 131:5, 134:7,
136:1, 141:10,
141:11, 144:3,
145:11, 146:6,
149:15, 173:17,
176:6, 176:16,
202:6, 208:13,
220:14, 260:15,
261:5, 269:12

designed [4] - 11:7,

19:17, 58:9, 174:5

designing [1] - 20:5

desirable

[2] - 196:18, 215:1

desire [1] - 65:11

despite [1] - 152:5

destroyed [5] - 55:11,

73:16, 74:3, 74:4,

78:1

detail [2] - 148:17,

200:10

details [3] - 24:1,

224:12, 226:4

deteriorating

[1] - 186:10

determination

[4] - 77:15, 136:9,

161:3, 254:6

determined

[1] - 237:12

detriment [9] - 32:14,

52:13, 117:3, 150:8,

178:8, 197:7, 215:7,

265:15, 273:15

devastating [1] - 57:2

develop [1] - 141:11

developed [3] - 95:9,

127:15, 159:9

developer

[8] - 137:14, 147:16,

148:18, 149:10,
152:2, 152:8, 153:9,
177:12

development

[8] - 32:8, 52:9,
141:12, 149:2,
149:9, 196:14,
197:4, 265:9

Development

[1] - 133:16

deviations

[1] - 164:12

diagonally [1] - 213:2

dialogue [1] - 85:7

differ [2] - 95:18,
182:15

difference

[2] - 114:17, 249:17

different [27] - 24:17,

26:1, 44:1, 44:2,
47:4, 50:10, 54:15,
78:2, 129:6, 143:17,
144:7, 146:16,
153:1, 171:16,
176:9, 192:10,
224:3, 224:4,
228:10, 232:1,
242:3, 242:10,
243:1, 250:7, 250:8,
260:4, 261:12

differently [3] - 159:9,
166:5, 184:5

difficulty [2] - 229:15,
268:16

DIGIOVANNI

[10] - 27:3, 28:1,
30:1, 30:4, 30:11,
31:1, 31:11, 37:1,
41:16, 46:11

Digiovanni [7] - 6:9,

6:10, 7:10, 7:16,
13:10, 26:14, 60:18

Digiovanni's

[1] - 59:14

dimension [5] - 17:4,

18:7, 71:1, 97:1,
111:9

dimensional

[21] - 31:16, 36:15,
38:16, 38:18, 43:5,
43:6, 43:14, 44:14,
45:3, 45:8, 45:15,
75:5, 89:11, 100:15,
121:2, 167:10,

182:4, 182:10,
 182:15, 182:17,
 183:12

dimensionally
 [3] - 13:4, 41:2, 41:5

dimensionals
 [1] - 45:8

dimensioned
 [1] - 49:8

dimensions
 [3] - 16:6, 41:6,
 111:5

dinner [3] - 233:8,
 233:9, 233:11

direct [7] - 29:16,
 60:16, 72:8, 73:17,
 154:14, 164:15

DIRECT [1] - 277:14

DIRECTION
 [1] - 277:14

directly [1] - 210:11

Director [1] - 256:18

disabled [1] - 263:18

discernible [1] - 14:8

discuss [1] - 176:2

discussed
 [4] - 155:17, 159:12,
 159:18, 185:5

discussion
 [12] - 9:12, 11:17,
 14:1, 17:17, 23:10,
 64:13, 77:5, 77:7,
 116:3, 195:10,
 214:7, 259:12

discussions
 [7] - 153:8, 154:9,
 155:10, 158:9,
 162:4, 162:17,
 179:5

disposables
 [1] - 263:1

dispose [1] - 262:17

disruption
 [1] - 243:13

disruptive [1] - 18:15

distance [4] - 40:16,
 42:4, 42:5, 142:8

distinguishes
 [1] - 168:3

distribute [1] - 7:2

district [20] - 9:4,
 9:13, 14:7, 52:18,
 70:3, 72:18, 126:13,
 126:14, 134:5,

168:4, 173:15,
 176:13, 178:3,
 178:4, 266:1, 266:2,
 270:9, 270:15

District ^[22] - 7:6, 7:9,
 8:4, 12:2, 14:3,
 14:18, 20:7, 33:4,
 123:7, 123:8,
 123:10, 125:16,
 125:17, 126:10,
 128:14, 140:6,
 140:11, 172:9,
 174:4, 175:9,
 176:11, 201:8

districts ^[2] - 127:1,
 176:10

dock ^[1] - 243:9

documents

^[1] - 121:4

DOES ^[1] - 277:13

doghouse

^[3] - 186:17, 188:5,
 189:12

done ^[11] - 34:9, 72:6,
 88:2, 88:4, 120:12,
 135:11, 168:10,
 168:14, 247:13,
 253:7, 268:8

door ^[10] - 78:15,
 82:13, 83:3, 151:17,
 186:8, 189:10,
 195:1, 221:16,
 230:3, 230:6

doors ^[3] - 206:14,
 207:1, 263:11

doorway ^[1] - 144:18

dormer ^[37] - 96:11,
 100:4, 101:3,
 101:17, 103:16,
 108:4, 108:9,
 108:17, 109:5,
 109:13, 109:16,
 110:3, 110:4,
 110:16, 110:17,
 111:1, 112:8, 113:7,
 114:6, 114:12,
 114:14, 115:9,
 183:1, 186:17,
 187:2, 187:4, 187:5,
 187:10, 188:6,
 188:7, 189:8,
 189:11, 189:12,
 189:13, 191:1,
 191:2, 194:16

dormers [2] - 187:6,
189:7

double [4] - 188:17,
188:18, 245:18,
260:13

doubts [1] - 49:15

down [30] - 7:7, 10:1,
14:7, 16:4, 17:16,
18:4, 25:5, 28:13,
57:3, 57:16, 83:6,
95:13, 101:11,
101:12, 111:15,
112:6, 112:9,
112:17, 124:8,
132:6, 142:5,
147:18, 151:10,
157:10, 160:8,
162:1, 169:12,
196:4, 204:15,
208:14

downzone [2] - 131:7,
131:8

downzoning
[1] - 131:6

dozen [1] - 31:3

drafted [1] - 134:10

dramatically
[2] - 155:16, 156:3

drawing [1] - 131:14

drawings [5] - 100:5,
100:9, 102:10,
115:9, 205:16

dreaming [1] - 219:13

drill [1] - 88:9

drive [2] - 142:4,
261:18

drive-in [1] - 261:18

driven [1] - 140:3

drivers [1] - 245:10

driveway [6] - 12:13,
12:14, 12:15, 37:6,
40:4, 42:1

driveway's [1] - 41:1

driveways [1] - 46:13

driving [3] - 171:2,
171:3, 205:11

dropped [1] - 111:11

drops [1] - 241:3

Dry [1] - 123:15

due [2] - 66:7, 70:5

duplex [4] - 12:8,
56:8, 65:15, 81:13

duplex-style
[1] - 56:8

duplexing ^[1] - 61:15

during ^[3] - 27:12,
210:16, 231:10

dwelling ^[28] - 7:11,
11:9, 12:15, 12:16,
49:2, 56:5, 56:11,
57:5, 57:8, 57:11,
57:18, 59:3, 59:6,
59:7, 60:4, 61:4,
61:10, 61:12, 64:14,
64:15, 65:11, 66:5,
71:15, 71:16, 72:2,
76:1, 76:2, 78:17

E

E-L-L-E-R-B-E-E

^[1] - 210:6

E-M-E-R-S-O-N

^[1] - 6:17

eager ^[2] - 86:18,
255:4

early ^[1] - 240:10

easement ^[3] - 156:9,
157:5, 162:4

easier ^[1] - 240:16

east ^[5] - 127:1,
128:6, 211:1,
212:12, 213:6

easy ^[2] - 181:18,
258:7

echo ^[1] - 152:1

edge ^[1] - 189:18

effect ^[3] - 73:18,
109:5, 235:15

effective ^[2] - 7:3,
235:17

effectively ^[1] - 40:1

effects ^[1] - 115:17

effort ^[4] - 65:4,
110:13, 135:15,
236:15

efforts ^[2] - 9:7, 12:4

egress ^[27] - 12:7,
52:4, 186:5, 186:6,
186:7, 186:9, 187:8,
192:3, 192:10,
194:18, 196:17,
200:14, 202:5,
203:4, 205:3, 208:5,
208:8, 208:18,
210:18, 211:4,
212:11, 213:5,
214:18, 215:14,

263:16, 264:14

egresses ^[1] - 59:4

eight ^[11] - 62:2, 63:3,

63:5, 64:2, 84:17,

85:7, 86:5, 86:13,

239:7, 239:8,

240:14

either ^[8] - 30:1, 39:6,

68:5, 88:15, 124:9,

173:3, 246:5,

248:18

elaborate ^[1] - 166:16

elapse ^[1] - 91:10

elastic ^[1] - 229:5

elderly ^[1] - 268:15

elected ^[1] - 8:1

element ^[5] - 9:15,

18:5, 20:16, 102:3,

250:7

elements ^[9] - 9:10,

10:18, 12:6, 14:8,

14:12, 20:8, 35:15,

134:4, 222:1

elevated ^[1] - 142:4

eleven ^[3] - 42:18,

43:1, 231:17

eliminate ^[1] - 81:14

eliminates

^[1] - 104:12

eliminating

^[2] - 132:4, 149:8

ELIZABETH

^[3] - 148:10, 148:13,

172:2

Elizabeth

^[3] - 148:13, 164:16,

171:16

Ellerbee ^[1] - 210:6

embarked ^[1] - 268:5

emergency

^[1] - 202:10

EMERSON ^[9] - 6:14,

6:17, 16:14, 20:5,

21:5, 21:14, 41:11,

41:15, 42:18

emerson ^[1] - 6:17

Emerson ^[5] - 6:18,

7:18, 10:3, 13:15,

19:14

Emerson's ^[2] - 9:7,

14:14

emolliements

^[1] - 247:6

emphasis ^[1] - 228:9

employees

[3] - 244:7, 244:8,
244:14

empties [1] - 237:9

empty [1] - 71:5

enclosed [1] - 268:11**encompassing**

[2] - 46:4, 69:6

encourage

[3] - 163:16, 260:12,
262:16

encouraged

[2] - 130:8, 228:13

encouragement

[1] - 146:6

encroaches

[1] - 186:14

encroachment

[1] - 185:11

end [11] - 61:10,

65:13, 98:1, 125:15,
149:4, 185:6, 190:3,
209:7, 249:14,
249:18, 268:11

ends [1] - 83:7**endured** [1] - 57:7**enforcement**

[7] - 32:3, 32:7,
116:9, 177:8,
196:11, 214:15,
272:18

engaging [1] - 20:11**engineers** [1] - 8:1**England** [2] - 21:7,

21:8

enhanced

[1] - 250:12

enjoy [2] - 247:9,

258:1

enjoyable [1] - 247:10**enlightened**

[1] - 223:8

ensured [1] - 189:17**enter** [1] - 125:9**entire** [3] - 35:5,

249:11, 251:3

entirely [1] - 203:17**entity** [1] - 54:16**entrance** [1] - 251:17**entry** [4] - 202:16,

230:3, 268:10,
268:11

envelope [2] - 268:8,

268:9

envisioned

[1] - 168:8

equally [1] - 27:13

equipment [1] - 3:15

err [1] - 87:3

ERRATA [1] - 275:18

Errata [2] - 276:1,
276:6

escape [4] - 202:3,
202:14, 206:6,
208:6

especially [4] - 14:12,
130:13, 150:13,
251:13

essential [1] - 184:1

essentially

[3] - 38:11, 81:14,
108:18

established

[5] - 52:6, 84:10,
225:18, 255:16,
264:15

establishment

[19] - 220:15, 222:7,
223:7, 223:16,
229:13, 231:7,
238:3, 238:11,
257:4, 260:4, 260:9,
260:17, 261:8,
261:11, 261:16,
262:8, 262:14,
263:15, 266:7

establishments

[5] - 227:8, 227:15,
237:6, 261:14,
265:13

estimated [1] - 16:10

estimation [1] - 131:9

etcetera [1] - 110:2

ethical [2] - 226:10,
227:1

Eustis [1] - 114:4

evaluating [1] - 78:14

evening [15] - 5:10,
5:11, 6:2, 54:9,
93:9, 93:10, 107:10,
115:4, 119:15,
122:9, 122:15,
158:2, 184:3, 217:9,
241:4

evenings [1] - 233:13

events [1] - 257:10

everyday [1] - 243:4

exactly [10] - 42:9,

47:6, 67:17, 68:7,
 136:16, 156:6,
 185:14, 206:15,
 221:8, 230:12

examination
 [2] - 58:4, 237:12

example [2] - 156:18,
 176:5

exceeding
 [1] - 185:12

exceeds [2] - 188:15,
 194:17

excellent [1] - 203:10

except [6] - 127:8,
 140:5, 189:9, 192:4,
 261:6, 276:14

exception
 [1] - 172:18

exceptionally
 [1] - 11:12

excessive
 [1] - 238:17

exchange [1] - 150:18

excuse [3] - 125:18,
 128:10, 138:13

execute [1] - 86:12

executed [1] - 82:4

Executive
 [2] - 211:10, 256:18

exempted [1] - 136:3

exercise [1] - 235:17

exercising
 [2] - 91:13, 91:18

exist [2] - 11:15,
 208:17

existed [1] - 211:4

existence [1] - 42:7

existing [18] - 11:6,
 40:7, 71:8, 187:18,
 188:12, 190:6,
 202:2, 202:15,
 202:17, 203:18,
 204:10, 204:12,
 206:5, 206:6, 208:6,
 220:11, 255:18

exists [3] - 65:10,
 176:6, 261:5

exit [1] - 251:18

exiting [3] - 202:10,
 208:11, 210:18

expand [2] - 24:8,
 271:5

expansive [1] - 46:6

expect [3] - 127:17,

244:8, 262:2

expense [1] - 150:4

experience

[4] - 18:17, 86:9,

237:4, 262:2

experienced

[1] - 167:5

expiration [1] - 91:17

Expires [1] - 277:11

explain [4] - 167:3,

182:12, 182:14,

200:15

explained [1] - 228:8

explanatory

[1] - 187:9

exploring [1] - 83:13

express [1] - 68:6

expressed [3] - 68:6,

254:4, 255:5

expresses

[1] - 171:17

expressing

[1] - 57:15

expressions

[1] - 178:16

extended [1] - 91:11

extending

[1] - 248:12

extends [2] - 190:5,

231:10

extension [3] - 91:9,

91:13, 92:2

Extension [1] - 92:6

extent [6] - 89:9,

121:1, 153:16,

182:14, 194:3,

262:8

exterior [3] - 203:4,

261:5, 268:9

extra [1] - 60:11

F

facade [3] - 221:5,

230:7, 271:11

facades [1] - 229:17

face [2] - 10:5, 20:16

facilitate [1] - 76:8

facilities [1] - 263:17

facing [1] - 129:15

fact [18] - 14:6, 14:9,

47:12, 58:16, 81:9,

134:9, 155:13,

165:4, 176:12,

191:18, 197:2,
 215:3, 221:18,
 224:2, 238:10,
 261:6, 265:11,
 273:10
factors ^[2] - 125:14,
 237:1
failed ^[2] - 34:10,
 253:6
failure ^[1] - 47:7
fair ^[5] - 26:18, 76:6,
 159:13, 226:14,
 254:11
fairly ^[3] - 110:3,
 113:7, 190:8
fairness ^[1] - 87:1
fait ^[1] - 170:2
faith ^[1] - 39:12
fall ^[1] - 202:7
familiar ^[3] - 56:17,
 207:14, 223:4
families ^[2] - 144:4,
 150:14
family ^[27] - 7:5,
 31:11, 36:13, 56:1,
 65:1, 67:12, 67:13,
 71:17, 78:16, 78:17,
 80:9, 81:7, 109:1,
 114:17, 140:1,
 151:7, 174:16,
 175:2, 184:8,
 187:16, 201:11,
 201:12, 202:2,
 215:1, 268:16,
 269:15
family's ^[4] - 210:17,
 212:10, 213:4,
 270:4
family-oriented
^[1] - 151:7
FAR ^[21] - 9:3, 9:4,
 70:2, 70:16, 74:8,
 75:14, 75:15, 108:6,
 108:7, 108:9, 110:6,
 110:9, 128:1, 183:1,
 183:5, 185:12,
 194:18, 270:8
far ^[9] - 6:5, 6:9, 18:7,
 87:4, 193:2, 231:10,
 245:4, 265:5
FAR's ^[1] - 74:9
Fast ^[1] - 220:12
fast ^[14] - 101:10,
 122:12, 122:13,

222:18, 231:7,
 242:9, 242:18,
 246:18, 247:2,
 250:4, 257:3, 260:3,
 261:13, 266:6

father ^[1] - 185:2

fault ^[1] - 133:9

faux ^[1] - 14:4

favor ^[25] - 28:7,

28:11, 36:4, 36:6,
 53:8, 53:10, 89:18,
 90:3, 92:3, 92:5,
 105:13, 105:15,
 114:18, 118:7,
 121:9, 121:11,
 180:1, 180:3, 195:5,
 198:11, 198:13,
 216:4, 266:8,
 266:10, 274:18

Fax ^[1] - 1:16

feasible ^[1] - 262:9

feasibly ^[1] - 168:11

feature ^[5] - 9:14,
 17:18, 18:16, 20:17,
 250:3

features ^[3] - 10:16,

14:15, 19:15

feedback ^[1] - 158:13

feet ^[66] - 8:18, 9:17,
 10:1, 10:11, 10:15,
 13:14, 16:15, 17:5,
 41:10, 41:18, 42:1,
 42:2, 55:17, 61:1,
 61:2, 61:3, 61:11,
 62:2, 62:7, 62:13,
 62:18, 63:8, 64:9,
 82:12, 95:15, 97:1,
 108:8, 108:12,
 111:6, 111:10,
 113:6, 123:13,
 126:16, 127:6,
 128:2, 132:9,
 132:12, 138:6,
 138:8, 138:16,
 140:5, 140:8, 140:9,
 140:17, 141:1,
 142:17, 142:18,
 149:12, 149:18,
 151:1, 151:6, 152:5,
 153:1, 159:2, 163:5,
 174:1, 188:6,
 210:12, 270:13,
 270:14, 270:16

fellow ^[2] - 165:16,

183:16

felt [6] - 20:8, 20:11,
77:13, 130:1,
135:14, 135:15

FENCHEL

[2] - 267:12, 274:12

Fenchel [1] - 267:12

fenestration

[1] - 250:9

few [7] - 19:15, 38:8,
64:9, 225:17,
251:15, 255:12,
268:6

figure [3] - 100:12,

100:14, 246:6

file [12] - 8:5, 91:16,

94:8, 134:11,
134:18, 206:1,
210:4, 212:3, 220:8,
221:14, 256:17,
271:3

filed [3] - 131:7,

182:15, 182:18

files [7] - 25:8, 89:12,

89:15, 121:4, 129:9,
183:12

fill [1] - 103:13

filled [2] - 103:11,

142:6

filling [1] - 228:11

final [7] - 34:3, 118:2,

183:12, 196:2,
196:7, 208:4,
211:15

finally [3] - 102:11,

143:9, 243:8

finances [1] - 67:6

findings [21] - 32:1,

51:16, 53:3, 105:2,
105:3, 105:6, 116:7,
117:12, 177:6,
179:12, 195:16,
196:9, 197:13,
214:13, 215:16,
220:11, 264:9,
266:4, 272:16,
274:5

finish [1] - 153:11

fire [25] - 55:8, 55:10,

55:12, 57:1, 57:2,
57:7, 62:4, 64:14,
66:4, 66:8, 66:9,
66:14, 66:17, 69:11,
70:12, 70:16, 73:3,

73:16, 74:4, 79:14,
202:3, 202:14,
206:6, 208:6

first ^[49] - 3:9, 5:5,
10:12, 12:9, 25:6,
31:15, 36:2, 48:8,
48:13, 56:8, 60:3,
60:7, 61:15, 63:6,
65:16, 79:12, 79:17,
80:5, 83:16, 87:11,
87:17, 93:11, 105:9,
120:11, 126:15,
132:17, 138:8,
139:8, 140:15,
142:3, 147:8,
149:18, 155:12,
155:18, 179:17,
183:2, 185:11,
186:9, 186:13,
187:16, 190:3,
200:6, 205:3, 205:5,
218:18, 228:18,
261:11, 268:6

First ^[3] - 1:6, 2:9,
119:6

fish ^[1] - 246:14

fisheries ^[1] - 228:5

fit ^[3] - 114:14,
156:18, 187:12

fits ^[1] - 269:12

five ^[41] - 36:6, 42:11,
43:2, 53:10, 89:13,
90:3, 92:5, 105:15,
109:3, 121:5,
121:11, 132:8,
134:6, 134:8, 138:4,
138:6, 140:4,
143:13, 148:16,
149:18, 151:1,
151:5, 151:6,
152:17, 152:18,
153:1, 153:2, 153:4,
165:8, 175:10,
175:15, 180:3,
183:13, 198:13,
203:7, 218:2, 227:3,
239:16, 241:12,
244:18, 266:10

five-foot ^[14] - 42:11,
134:6, 134:8, 138:4,
143:13, 148:16,
151:5, 152:17,
152:18, 153:2,
153:4, 165:8,

175:10, 175:15

five-unit ^[1] - 132:8

five-years-old

^[1] - 109:3

flat ^[1] - 136:2

flatness ^[1] - 10:8

flattened ^[1] - 143:16

flew ^[1] - 184:7

flexible ^[1] - 152:8

Floor ^[1] - 1:6

floor ^[70] - 10:12,

11:15, 11:17, 11:18,

12:9, 12:10, 12:11,

15:16, 17:10, 17:12,

28:5, 29:8, 56:8,

60:3, 60:8, 61:2,

61:3, 61:5, 61:15,

63:6, 63:9, 64:3,

65:16, 71:11, 75:2,

79:12, 79:17, 80:5,

83:16, 96:13,

103:17, 128:3,

129:3, 129:18,

130:5, 130:13,

132:4, 132:9,

138:14, 138:15,

138:18, 141:14,

142:3, 183:2, 186:6,

186:7, 186:10,

186:12, 186:13,

186:17, 187:16,

187:18, 188:1,

188:2, 190:3, 190:9,

191:16, 192:11,

193:12, 196:17,

204:15, 205:3,

205:6, 211:1, 224:5,

268:7, 271:7, 273:8

flowers ^[1] - 257:16

FOA ^[1] - 231:7

focussed ^[1] - 134:4

folks ^[4] - 126:4,

161:9, 163:3, 184:3

follow ^[1] - 102:17

followed ^[3] - 160:12,

190:18, 191:2

following ^[13] - 32:1,

51:16, 87:16, 105:2,

116:7, 120:7, 177:6,

195:16, 196:9,

214:13, 260:8,

264:8, 272:16

follows ^[1] - 265:11

Food ^[1] - 220:13

food ^[30] - 222:18,
 224:4, 226:7,
 226:10, 226:12,
 226:13, 227:2,
 227:15, 231:7,
 237:18, 240:15,
 242:9, 242:18,
 245:3, 245:13,
 246:18, 247:2,
 247:4, 247:10,
 257:3, 257:14,
 260:3, 261:12,
 261:13, 262:10,
 262:18, 265:11,
 265:12, 265:13,
 266:7

foot ^[37] - 11:8, 42:11,
 42:18, 43:1, 58:9,
 62:4, 62:7, 63:2,
 63:3, 63:5, 80:4,
 112:9, 134:6, 134:8,
 138:1, 138:4, 139:2,
 142:6, 143:13,
 148:16, 150:15,
 151:5, 152:17,
 152:18, 153:2,
 153:3, 153:4, 165:7,
 165:8, 172:14,
 174:8, 175:10,
 175:15, 190:10,
 253:8, 253:10

footage ^[5] - 9:10,
 13:17, 17:5, 55:15,
 55:18

footprint ^[8] - 8:11,
 11:5, 55:13, 55:14,
 70:18, 71:10, 75:2,
 203:17

FOR ^[1] - 1:1

force ^[1] - 50:5

forego ^[1] - 171:18

foregoing ^[1] - 276:14

FOREGOING

^[1] - 277:13

forewarned ^[1] - 4:8

forget ^[1] - 88:15

forgot ^[1] - 89:8

form ^[12] - 38:11,
 89:11, 103:11,
 182:4, 182:10,
 182:15, 182:18,
 183:12, 223:9,
 224:10, 271:11,
 271:13

former ^[1] - 8:7
formerly ^[2] - 123:9,
 128:3
forms ^[1] - 206:10
formula ^[1] - 135:12
forth ^[5] - 67:7, 68:2,
 131:13, 188:3,
 277:4
forward ^[13] - 39:12,
 101:10, 118:3,
 122:9, 126:6, 131:1,
 151:12, 156:2,
 158:2, 177:18,
 179:1, 196:3,
 211:15
foundation ^[2] - 11:5,
 268:13
four ^[18] - 26:2, 67:1,
 71:17, 80:9, 132:12,
 134:10, 140:9,
 141:12, 144:12,
 144:13, 185:6,
 187:2, 227:3,
 234:12, 239:15,
 241:3, 269:3,
 274:16
four-family
^[2] - 71:17, 80:9
four-unit ^[4] - 67:1,
 132:12, 134:10,
 141:12
fourth ^[6] - 80:16,
 82:5, 82:7, 83:18,
 185:4, 193:7
franchise ^[2] - 248:4,
 248:11
franchisee
^[1] - 248:10
frankly ^[8] - 11:3,
 15:2, 64:18, 81:16,
 134:2, 223:4, 235:1,
 238:14
Fredo ^[1] - 54:13
FREDO ^[15] - 55:3,
 55:6, 56:14, 61:7,
 62:1, 62:6, 62:12,
 62:16, 63:3, 63:7,
 63:12, 64:1, 79:8,
 80:1, 80:17
free ^[3] - 115:2,
 119:18, 126:6
fresh ^[4] - 239:17,
 243:3, 246:14,
 257:17

Fridays ^[1] - 232:15

friend ^[1] - 93:16

friends ^[1] - 23:7

FROM ^[4] - 126:7,
139:11, 147:7,
148:2

front ^[31] - 8:14, 9:14,
14:13, 16:9, 19:1,
19:17, 35:1, 123:4,
123:6, 128:7, 129:7,
133:17, 137:18,
139:5, 141:16,
167:14, 188:8,
188:16, 189:16,
205:15, 218:3,
222:4, 230:3, 252:7,
269:9, 270:12,
270:13, 270:16,
270:17, 271:10,
271:14

frontage ^[2] - 129:2,
249:11

frustration ^[1] - 150:5

fulfilling ^[2] - 227:12,
261:15

fulfills ^[1] - 261:8

full ^[8] - 39:5, 42:16,
103:15, 108:18,
119:17, 159:2,
182:7, 182:9

fully ^[8] - 59:4, 79:13,
111:2, 111:4,
144:16, 156:16,
164:16, 165:1

fumes ^[1] - 225:7

fun ^[1] - 232:8

function ^[5] - 68:18,
187:11, 269:15,
271:12

functional ^[5] - 12:5,
58:12, 66:15, 273:7,
274:3

funky ^[1] - 22:16

funny ^[2] - 95:2,
101:7

future ^[3] - 104:13,
220:3, 273:5

G

gable ^[1] - 187:5

Gaelic ^[1] - 6:8

Galante ^[2] - 6:13,
24:8

garage ^[1] - 110:8
Garfield ^[8] - 2:7,
 93:6, 94:1, 95:1,
 95:9, 95:13, 103:15,
 104:2
Gas ^[5] - 123:17,
 124:4, 124:6,
 124:10, 124:13
gatherings ^[1] - 18:14
GENERAL ^[1] - 1:3
general ^[4] - 52:16,
 115:16, 253:11,
 264:6
generally
^[2] - 208:16, 265:18
generate ^[2] - 18:12,
 253:16
generated ^[2] - 52:3,
 264:13
generation
^[3] - 184:16, 185:4,
 193:8
gentleman
^[1] - 248:11
Geoffrey ^[1] - 267:15
germane ^[1] - 164:18
GFA ^[9] - 8:18, 9:18,
 10:10, 11:2, 11:16,
 17:10, 18:4, 71:9,
 136:3
giant ^[1] - 241:6
given ^[10] - 32:6,
 44:5, 115:4, 154:7,
 159:10, 196:14,
 225:13, 246:13,
 259:2, 262:13
glad ^[2] - 93:11, 184:9
glare ^[1] - 235:8
glass ^[3] - 113:3,
 221:12, 221:15
gleaned ^[1] - 255:3
GLENN ^[1] - 28:4
Glenn ^[1] - 28:4
glow ^[1] - 235:8
goals ^[1] - 141:13
gold ^[1] - 98:17
gonna ^[19] - 22:18,
 23:12, 24:18, 97:2,
 137:17, 141:11,
 144:7, 189:8,
 238:14, 247:1,
 249:5, 249:14,
 249:16, 249:17,
 249:18, 251:16,

252:18, 253:1,
253:4

Gonsalves

[1] - 213:16

GONSALVES

[1] - 213:16

good-sized

[1] - 108:13

goodness [2] - 80:14,
102:15

grade [2] - 130:6,
142:2

grand [1] - 273:15

grandfathered

[1] - 13:1

grandmother

[1] - 185:2

grant [26] - 35:18,
46:15, 47:11, 53:4,
67:15, 70:1, 70:9,
92:1, 105:7, 117:13,
130:15, 145:12,
153:14, 166:10,
169:7, 170:2,
179:13, 195:18,
197:14, 215:17,
220:12, 222:17,
260:6, 266:5,
268:18, 274:6

granted [20] - 32:13,
36:7, 53:7, 53:11,
76:3, 91:9, 91:14,
92:6, 105:12,
105:16, 117:2,
118:10, 178:7,
180:4, 197:6,
198:14, 215:6,
216:6, 266:11,
275:2

granting [10] - 49:12,
57:12, 109:5,
114:11, 118:7,
148:15, 151:4,
231:3, 253:2,
264:11

great [3] - 28:8,
150:4, 234:18

greater [5] - 8:9, 18:7,
55:17, 75:1, 183:6

greatest [1] - 262:8

greatly [1] - 145:3

green [7] - 123:6,
136:7, 136:8, 136:9,
137:2, 143:14,

151:2

Green ^[25] - 1:9, 3:5,

5:4, 18:18, 36:8,

53:12, 54:4, 90:7,

91:4, 92:7, 93:4,

105:17, 107:4,

118:12, 119:4,

122:4, 180:5, 181:4,

198:15, 199:4,

216:8, 217:4,

266:12, 267:4,

275:4

GREEN ^[34] - 68:9,

68:13, 68:16, 69:1,

73:9, 74:14, 74:17,

75:17, 76:14, 83:8,

95:4, 100:7, 100:12,

103:3, 104:17,

108:1, 112:2, 112:6,

112:12, 113:1,

116:4, 120:8,

139:10, 157:17,

166:2, 177:2,

195:11, 201:3,

207:8, 214:9, 222:8,

224:18, 225:3,

236:4

Greenblatt

^[1] - 212:17

GREENFIELD

^[9] - 199:11, 200:1,

200:5, 200:8,

203:13, 204:9,

204:12, 206:3,

207:10

Greenfield

^[5] - 199:11, 199:12,

210:14, 212:10,

213:3

grey ^[2] - 156:4, 160:5

grill ^[1] - 225:6

gross ^[2] - 29:8, 75:2

ground ^[13] - 67:13,

128:3, 129:2,

129:18, 130:5,

130:12, 132:4,

132:9, 138:14,

138:15, 138:18,

141:14, 204:7

group ^[2] - 158:16,

159:12

groups ^[1] - 130:9

growing ^[1] - 114:17

Grub ^[1] - 245:11

guess ^[14] - 22:9,
22:17, 45:10, 68:3,
95:17, 152:9, 166:5,
170:13, 210:2,
246:5, 248:4,
249:12, 252:13,
272:9

guidelines

^[7] - 109:16, 110:16,
110:17, 111:1,
112:8, 191:1, 191:3

gutters ^[1] - 268:8

guys ^[1] - 122:11

H

habitable ^[2] - 187:1,
187:14

half ^[4] - 7:9, 62:14,
123:10, 202:8

Half ^[5] - 7:9, 8:3,
20:6, 23:3, 33:3

Hampshire

^[1] - 181:14

hand ^[10] - 50:5,
207:2, 207:3,
223:12, 250:5,
250:10, 253:3,
253:13, 253:14,
277:6

handicap ^[5] - 230:4,
238:5, 238:8,
238:13, 264:5

handicapped

^[2] - 81:2, 263:18

handouts ^[1] - 146:15

hands ^[1] - 92:4

handsome

^[2] - 133:5, 155:15

handwriting

^[2] - 104:2, 114:2

handy ^[1] - 166:17

happy ^[4] - 7:2, 25:10,
26:14, 190:15

hard ^[9] - 71:18,
109:16, 126:8,
144:9, 148:3,
148:18, 161:10,
187:13, 201:3

hardly ^[1] - 189:8

hardship ^[31] - 12:3,
32:5, 32:10, 57:6,
57:10, 57:12, 67:6,
69:13, 69:15, 96:9,

97:16, 98:8, 108:10,
116:11, 116:15,
167:1, 167:4,
177:10, 178:1,
187:9, 196:13,
197:2, 214:17,
215:3, 273:2,
273:10

hardships ^[2] - 56:18,
187:8

Harrison ^[2] - 2:14,
267:6

harsh ^[1] - 66:7

Harvard ^[27] - 225:10,
225:11, 225:12,
226:7, 226:8, 227:8,
227:13, 229:14,
230:9, 232:1,
232:14, 233:14,
233:17, 234:18,
235:7, 247:7,
247:11, 247:14,
248:12, 254:4,
254:14, 256:18,
257:4, 257:5,
258:17, 261:12,
265:2

hate ^[1] - 48:4

Hawaiian ^[1] - 223:9

hazard ^[4] - 52:6,
52:12, 264:15,
265:14

head ^[1] - 155:9

heading ^[1] - 7:8

headroom ^[1] - 101:5

health ^[3] - 52:13,
238:4, 265:15

healthier ^[1] - 232:6

healthy ^[4] - 27:16,
228:2, 228:4

hear ^[16] - 5:18, 47:4,
47:10, 122:14,
126:6, 131:16,
139:10, 151:12,
166:14, 169:6,
183:15, 184:10,
201:4, 223:14,
228:13, 254:13

heard ^[39] - 5:8,
22:12, 28:14, 54:7,
59:11, 85:2, 87:14,
93:7, 103:6, 107:7,
113:14, 119:7,
119:18, 120:6,

122:7, 147:5,
 151:11, 154:8,
 155:10, 157:13,
 165:18, 171:9,
 178:15, 181:7,
 188:11, 191:10,
 191:18, 193:2,
 194:7, 195:2, 199:7,
 209:17, 217:7,
 244:2, 255:5,
 256:13, 267:7,
 272:3, 272:7

HEARING ^[1] - 1:3

hearing ^[10] - 24:7,
 33:12, 50:2, 119:13,
 120:18, 121:8,
 126:8, 183:14,
 248:3, 277:4

Hearing ^[2] - 2:3, 2:5

hearings ^[1] - 77:3

hears ^[1] - 14:2

heart ^[2] - 55:16,
 80:14

HEATHER

^[1] - 191:12

Heather ^[2] - 191:12,
 193:14

heating ^[1] - 65:6

heavy ^[1] - 225:13

height ^[17] - 12:1,
 55:18, 58:9, 61:18,
 62:11, 62:13, 62:18,
 64:12, 111:16,
 126:11, 126:16,
 128:5, 149:13,
 160:9, 163:4,
 167:13, 173:18

heights ^[1] - 128:2

held ^[1] - 210:10

hello ^[2] - 107:9,
 181:9

help ^[2] - 150:10,
 156:16

helpful ^[1] - 205:17

helping ^[1] - 132:1

helpings ^[1] - 227:3

hence ^[1] - 110:9

hereby ^[1] - 276:15

herein ^[1] - 277:4

hereunto ^[1] - 277:6

hi ^[4] - 93:9, 147:11,
 155:7, 191:12

Hickey ^[23] - 1:9, 3:5,
 5:4, 36:8, 53:12,

54:4, 90:7, 92:7,
 93:4, 105:17, 107:4,
 118:12, 119:4,
 122:4, 180:5, 181:4,
 198:15, 199:4,
 216:8, 217:4,
 266:12, 267:4,
 275:4

HICKEY ^[35] - 19:9,
 40:12, 41:3, 42:3,
 42:9, 42:12, 43:9,
 43:15, 43:18, 44:6,
 44:10, 45:2, 45:18,
 46:4, 48:7, 48:11,
 50:14, 51:2, 60:10,
 66:18, 76:17, 83:12,
 83:15, 84:5, 86:14,
 87:7, 116:5, 146:15,
 146:18, 157:15,
 195:12, 226:16,
 241:5, 243:2, 243:6

hickey ^[1] - 91:4

hidden ^[1] - 250:4

high ^[6] - 18:12,

72:16, 95:15,

149:12, 159:2,

238:2

higher ^[5] - 79:18,

80:1, 126:17, 130:4,

227:1

highest ^[2] - 225:15

hijiki ^[1] - 257:17

Hillcrest ^[1] - 107:14

Hilliard ^[2] - 29:2,

31:2

hire ^[1] - 245:9

historic ^[2] - 23:13,

24:5

Historic ^[1] - 94:18

Historical ^[1] - 160:4

historically ^[5] - 34:2,

40:3, 40:14, 72:5,

255:12

historically-appropri-

ate ^[1] - 34:2

history ^[8] - 21:10,

30:17, 96:1, 96:5,

123:15, 128:9,

135:8, 161:6

hit ^[1] - 205:2

HOFFMAN

^[1] - 191:12

Hoffman ^[1] - 191:12

hold ^[1] - 202:12

home ^[10] - 7:5,
55:11, 55:13, 55:14,
55:15, 55:16, 58:13,
66:15, 195:3

honest ^[1] - 240:5

hood ^[1] - 225:7

HOPE ^[26] - 122:11,
122:14, 124:1,
124:7, 125:8,
125:13, 126:2,
126:9, 129:10,
132:14, 133:3,
133:8, 135:1, 135:4,
135:7, 135:10,
136:15, 142:2,
142:13, 142:16,
146:12, 154:11,
155:1, 164:8,
165:13, 172:7

hope ^[22] - 24:17,
59:18, 109:15,
111:2, 122:10,
157:2, 161:15,
162:7, 162:10,
162:15, 164:6,
166:18, 172:6,
185:3, 193:4, 195:4,
208:9, 211:7,
212:15, 213:8,
238:1, 270:3

Hope ^[2] - 122:16,
122:17

hopefully ^[5] - 23:18,
25:16, 151:2, 156:4,
208:4

hoping ^[3] - 152:10,
208:3, 233:12

horse ^[1] - 170:16

hour ^[2] - 241:16,
259:3

hours ^[5] - 230:16,
231:13, 236:16,
236:17, 237:2

house ^[62] - 8:2, 9:11,
10:1, 10:5, 10:6,
10:8, 10:9, 11:1,
11:6, 11:13, 12:4,
13:1, 13:18, 14:7,
14:16, 16:9, 18:3,
28:8, 31:6, 35:2,
35:7, 36:13, 38:7,
40:6, 42:4, 42:6,
57:2, 57:4, 57:16,
58:7, 78:16, 94:1,

94:2, 109:12,
 115:10, 115:13,
 184:15, 184:17,
 185:6, 185:7, 192:6,
 200:11, 201:7,
 201:15, 202:10,
 207:9, 207:12,
 210:18, 212:12,
 213:6, 268:3,
 268:14, 268:17,
 269:11, 269:13,
 270:2, 271:4,
 271:11, 271:14

houses ^[6] - 17:13,
 67:15, 71:18, 201:9,
 207:17, 207:18

Housing ^[3] - 82:9,
 84:15, 94:4

housing ^[17] - 58:15,
 64:16, 65:3, 65:4,
 72:14, 72:17, 77:7,
 78:3, 81:7, 82:18,
 83:1, 83:10, 86:10,
 150:13

Hub ^[1] - 245:11

huge ^[2] - 241:8,
 241:10

hung ^[2] - 188:17,
 188:18

Hurley ^[1] - 191:13

husband ^[2] - 184:14,
 184:16

I

idea ^[9] - 133:11,
 133:16, 139:16,
 141:4, 141:6, 168:1,
 170:17, 172:18,
 173:2

ideally ^[3] - 168:18,
 169:4, 169:16

identical ^[3] - 55:13,
 105:4, 105:11

identified ^[3] - 9:10,
 46:18, 230:14

identify ^[1] - 206:15

identifying ^[1] - 47:2

illustrating ^[1] - 7:4

imagine ^[1] - 202:9

immediate ^[3] - 6:12,
 18:6, 69:18

immediately

^[1] - 20:15

impact ^[7] - 10:10,
 26:2, 110:1, 117:11,
 128:5, 141:6,
 242:11

impacts ^[2] - 126:10,
 137:18

impair ^[3] - 52:17,
 174:18, 266:1

implication ^[3] - 56:9,
 56:10, 56:12

implications
^[1] - 139:4

important ^[12] - 20:8,
 20:12, 87:3, 88:14,
 111:8, 117:14,
 136:1, 227:17,
 227:18, 247:17,
 249:3, 252:11

impose ^[1] - 3:14

imposing ^[1] - 24:12

impossible
^[1] - 174:17

impromada ^[1] - 82:9

improve ^[1] - 215:13

improvement
^[3] - 230:3, 269:14,
 270:1

improves ^[1] - 196:18

improving ^[1] - 195:3

Imrich ^[1] - 114:8

IMRICH ^[1] - 114:9

IN ^[2] - 277:6, 277:13

inaccurate
^[1] - 164:13

inappropriate
^[1] - 158:15

inaudible ^[1] - 208:6

inaudible) ^[1] - 112:1

INC ^[1] - 1:15

inch ^[1] - 268:14

inches ^[4] - 63:15,
 188:8, 190:11,
 270:14

incident ^[1] - 73:17

incidentally ^[1] - 94:4

inclined ^[1] - 84:8

include ^[1] - 35:1

included ^[4] - 55:18,
 56:7, 182:18, 183:2

includes ^[2] - 13:3,
 182:10

including ^[7] - 73:3,
 149:16, 158:17,
 201:18, 204:5,

220:14, 260:15

inconsistent

[1] - 175:7

incorporated

[2] - 48:12, 60:3

increase [12] - 8:17,

29:8, 57:18, 75:3,
78:1, 108:8, 108:9,
108:17, 115:12,
115:14, 115:15,
270:11

increasing

[2] - 109:17, 109:18

indeed [3] - 24:5,

156:13, 159:6

independent

[2] - 13:8, 39:9

indicated [1] - 210:17

indication

[2] - 100:15, 252:17

individuals

[1] - 171:14

infant [1] - 202:11

inform [1] - 3:18

information

[2] - 121:2, 270:18

ingredients

[1] - 257:16

ingress [2] - 214:18,

263:16

initial [1] - 254:12

initialed [2] - 36:3,

117:18

initialled [5] - 105:10,

179:18, 198:9,

216:3, 274:17

input [1] - 146:8

inquiry [1] - 242:17

insensitive

[1] - 100:17

inside [1] - 249:12

insofar [1] - 252:5

Inspectional

[2] - 40:9, 276:2

instances [1] - 168:14

INSTRUCTIONS

[2] - 275:18, 276:4

instrumental

[1] - 132:1

integrity [2] - 52:18,

266:1

intended [9] - 11:8,

17:13, 18:16, 76:8,

96:12, 175:11,

187:17, 222:11,
228:16

intends ^[1] - 221:7

intensive ^[1] - 201:16

intent ^[14] - 32:16,
53:1, 117:5, 168:6,
173:14, 174:10,
175:5, 175:7,
176:10, 178:10,
197:9, 215:9, 266:3,
273:17

intention ^[1] - 189:4

interest ^[6] - 17:14,
161:9, 161:12,
166:1, 169:4, 255:5

interested ^[3] - 121:6,
126:5, 164:9

interesting
^[7] - 13:17, 24:4,
95:8, 207:16,
208:14, 224:10,
237:15

interestingly
^[1] - 136:18

interfere ^[1] - 3:16

interior ^[4] - 206:18,
222:1, 263:12,
263:13

interpreting
^[1] - 100:16

interrupt ^[2] - 97:14,
126:1

intro ^[1] - 226:6

introduced ^[1] - 218:4

investigations
^[1] - 169:13

investment ^[1] - 58:1

invite ^[1] - 184:11

involve ^[6] - 32:4,
116:10, 177:9,
196:12, 214:16,
273:1

involved ^[6] - 91:11,
150:2, 158:16,
161:10, 230:14,
254:7

involvement
^[1] - 135:13

involves ^[2] - 38:8,
47:16

involving ^[1] - 45:16

iron ^[2] - 202:7, 250:8

ironically ^[1] - 143:5

irrelevant ^[1] - 74:7

IS ^[1] - 151:18
ISD ^[6] - 50:9, 50:18,
 89:12, 102:11,
 137:10, 159:5
issue ^[23] - 7:4, 17:3,
 33:12, 37:3, 47:7,
 65:17, 75:15, 82:2,
 143:14, 145:6,
 156:10, 162:5,
 162:6, 163:2, 163:5,
 185:12, 187:10,
 191:17, 193:16,
 240:8, 270:12
issued ^[1] - 8:5
issues ^[15] - 40:11,
 114:5, 162:4,
 164:18, 166:8,
 169:5, 185:18,
 187:8, 191:15,
 202:6, 229:17,
 230:9, 230:14,
 235:11, 255:8
item ^[3] - 186:15,
 186:16, 241:15
items ^[4] - 185:10,
 187:7, 262:11,
 262:18
itself ^[5] - 11:11, 17:1,
 58:17, 98:8, 224:8

J

J-I-L-L-S-O-N

^[1] - 257:1

J-U-N-G

^[1] - 93:14

Jack's

^[5] - 123:17,
 124:4, 124:6,
 124:10, 124:13

Jackson

^[2] - 22:15,
 246:17

JAMES

^[187] - 5:11,
 6:2, 6:15, 6:18,
 15:6, 15:9, 16:8,
 16:13, 16:18, 17:6,
 18:11, 19:6, 19:13,
 22:14, 23:2, 25:10,
 25:14, 26:4, 26:13,
 26:17, 30:7, 30:12,
 33:5, 33:10, 33:16,
 34:6, 34:9, 34:16,
 35:4, 35:9, 37:4,
 37:9, 37:15, 38:2,
 39:2, 39:11, 39:18,
 40:18, 41:4, 41:9,

41:13, 41:17, 42:5,
42:10, 42:13, 43:1,
44:15, 45:13, 46:2,
46:5, 46:12, 47:14,
48:5, 48:15, 49:3,
49:17, 50:4, 51:6,
53:14, 54:9, 55:9,
56:15, 58:2, 59:13,
59:16, 60:5, 60:9,
60:15, 61:9, 63:11,
64:7, 64:11, 66:6,
66:16, 67:2, 70:4,
70:10, 70:17, 71:4,
71:7, 73:12, 75:8,
75:13, 75:18, 76:10,
77:1, 78:5, 78:11,
79:6, 79:15, 81:17,
83:14, 84:2, 84:9,
85:4, 85:9, 86:5,
86:16, 87:9, 87:12,
88:6, 89:4, 90:5,
93:9, 93:11, 94:10,
94:14, 94:17, 95:6,
96:8, 96:14, 96:17,
97:2, 97:8, 97:12,
97:15, 97:18, 98:6,
98:12, 99:1, 99:12,
99:16, 100:4,
104:10, 106:1,
217:9, 217:16,
218:6, 218:9,
218:17, 219:6,
219:10, 219:15,
220:5, 221:3,
221:11, 221:15,
221:18, 222:5,
222:9, 222:12,
222:16, 223:13,
224:17, 225:1,
225:5, 226:18,
228:7, 229:4, 229:6,
229:8, 230:13,
230:18, 231:12,
235:1, 235:6, 236:8,
237:17, 238:9,
239:3, 239:9,
239:13, 242:1,
242:8, 242:15,
243:7, 246:16,
248:7, 248:8,
248:10, 251:4,
251:6, 251:8, 251:9,
254:2, 254:18,
255:2, 255:13,

255:17, 256:2,
 256:11, 258:9,
 258:14, 259:4,
 259:7, 259:18,
 266:14
James ^[9] - 5:13, 6:3,
 6:13, 22:14, 54:10,
 93:13, 217:11,
 223:14, 246:15
JAMIE ^[9] - 6:14,
 6:17, 16:14, 20:5,
 21:5, 21:14, 41:11,
 41:15, 42:18
Jamie ^[3] - 6:14, 6:15,
 6:16
Janet ^[14] - 1:9, 3:5,
 5:3, 54:3, 73:7,
 91:4, 93:3, 107:3,
 119:3, 122:3, 181:3,
 199:3, 217:3, 267:3
JANET ^[34] - 68:9,
 68:13, 68:16, 69:1,
 73:9, 74:14, 74:17,
 75:17, 76:14, 83:8,
 95:4, 100:7, 100:12,
 103:3, 104:17,
 108:1, 112:2, 112:6,
 112:12, 113:1,
 116:4, 120:8,
 139:10, 157:17,
 166:2, 177:2,
 195:11, 201:3,
 207:8, 214:9, 222:8,
 224:18, 225:3,
 236:4
jetting ^[1] - 190:1
Jillson ^[2] - 256:17,
 257:1
Jim ^[2] - 21:8, 229:6
Jimenez ^[1] - 213:12
JIMENEZ ^[1] - 213:13
job ^[2] - 7:3, 47:1
JOE ^[3] - 181:18,
 182:6, 190:18
Joe ^[1] - 181:18
jog ^[1] - 138:5
JOHN ^[10] - 27:3,
 28:1, 30:1, 30:4,
 30:11, 31:1, 31:11,
 37:1, 41:16, 46:11
John ^[1] - 6:9
Joseph ^[1] - 194:15
Jr ^[1] - 194:14
juice ^[1] - 229:1

JULY ^[1] - 1:4
jumped ^[1] - 69:12
June ^[2] - 179:16,
 210:10
Jung ^[3] - 93:14, 96:2,
 103:14
Junior's ^[1] - 94:2
justified ^[1] - 164:2
justifies ^[1] - 57:12
juxtaposition
^[1] - 141:5

K

keen ^[1] - 247:2
keep ^[11] - 21:6,
 27:16, 88:18, 97:14,
 190:14, 205:14,
 233:13, 233:18,
 234:16, 239:17,
 261:4
Kendall ^[1] - 72:18
kept ^[1] - 151:2
key ^[1] - 125:14
keys ^[1] - 38:8
KeywordIndex
^[1] - 2:15
kicked ^[1] - 110:8
kids ^[2] - 98:15, 109:9
kids' ^[1] - 98:14
kind ^[23] - 15:18,
 95:2, 95:7, 100:13,
 102:17, 140:1,
 144:17, 168:4,
 168:8, 169:7, 171:1,
 205:4, 205:12,
 205:13, 206:16,
 206:18, 208:3,
 208:18, 242:10,
 249:7, 250:4, 250:6,
 250:7
kiosk ^[1] - 251:10
kitchen ^[1] - 268:6
knocked ^[1] - 169:12
knowledge ^[1] - 227:9
known ^[2] - 153:5,
 159:8
knows ^[3] - 26:14,
 218:7, 223:9

L

ladder ^[2] - 202:7,
 202:12
laid ^[1] - 100:10

land ^[4] - 67:9, 69:4,
173:11, 235:14

landing ^[9] - 192:4,
192:5, 194:1, 205:2,
205:7, 208:15,
211:2, 212:13,
213:6

landings ^[1] - 63:16

landlord's ^[1] - 236:9

landscaping
^[1] - 190:6

language ^[1] - 75:10

lantern ^[2] - 99:6,
100:18

Lapel's ^[1] - 123:15

lapsed ^[1] - 96:7

large ^[8] - 18:14, 56:1,
123:13, 124:3,
124:12, 124:16,
124:18, 239:18

largely ^[1] - 110:18

larger ^[4] - 60:7, 60:8,
109:7, 269:1

last ^[13] - 6:16, 10:11,
55:4, 55:5, 76:13,
173:6, 181:16,
201:15, 232:18,
244:4, 248:2, 257:6

lastly ^[5] - 89:9,
121:1, 213:18,
263:14, 273:14

late ^[10] - 192:15,
232:3, 232:8, 236:7,
237:5, 247:8, 248:3,
251:13, 259:3

Lawson ^[1] - 277:2

layout ^[2] - 46:13,
144:5

lead ^[1] - 18:14

leads ^[1] - 19:4

leaks ^[1] - 169:14

learn ^[2] - 51:8, 223:6

learned ^[1] - 51:9

least ^[8] - 11:1, 111:8,
142:17, 159:7,
162:4, 225:18,
232:11, 265:4

leave ^[3] - 40:9,
50:18, 102:10

leaves ^[1] - 169:8

leaving ^[1] - 253:6

led ^[1] - 11:14

left ^[9] - 20:18, 31:7,
35:7, 71:2, 127:14,

129:13, 142:5,
143:2, 202:3

Legal ^[1] - 122:17

legal ^[7] - 96:15,
164:1, 167:3,
185:18, 191:13,
235:13, 264:4

lend ^[1] - 194:14

length ^[4] - 39:6,
138:2, 202:8, 216:2

Leslie ^[1] - 127:11

less ^[7] - 39:5, 86:15,
123:12, 152:5,
153:7, 207:18,
215:1

letter ^[27] - 15:1,
28:17, 94:11, 94:13,
103:11, 103:12,
104:4, 114:8,
119:11, 171:15,
171:16, 172:1,
194:12, 194:13,
203:9, 210:5, 212:4,
212:6, 212:17,
213:11, 213:15,
213:18, 256:17,
257:2

letters ^[11] - 94:5,
94:7, 103:10,
103:12, 203:7,
209:3, 210:3, 212:2,
214:3, 272:9

level ^[5] - 12:9, 18:12,
188:12, 192:12,
253:15

Lexington

^[1] - 107:15

liberal ^[1] - 50:7

License ^[4] - 237:3,
237:12, 254:10,
277:10

license ^[1] - 231:2

licensed ^[1] - 237:6

Licensing

^[1] - 236:15

life ^[4] - 39:13, 84:13,
201:18, 268:12

light ^[6] - 99:5, 99:7,
110:2, 234:10,
249:15, 252:15

lighting ^[2] - 235:4,
257:11

lights ^[3] - 233:18,
234:8, 235:16

limited ^[1] - 224:14
LINE ^[1] - 276:7
line ^[9] - 95:12,
 111:12, 111:13,
 111:15, 112:1,
 112:3, 112:5,
 156:10, 157:5
linear ^[1] - 129:2
lines ^[1] - 81:18
lining ^[1] - 186:11
linked ^[2] - 26:6,
 48:14
Liquiteria
^[9] - 217:15, 224:7,
 229:2, 238:6,
 238:10, 249:7,
 253:6, 253:9, 261:5
list ^[1] - 110:12
listed ^[1] - 115:6
listening ^[1] - 93:17
lit ^[2] - 234:16, 236:11
literal ^[7] - 32:3, 32:7,
 116:9, 177:8,
 196:11, 214:15,
 272:18
literally ^[1] - 88:16
live ^[12] - 23:7, 28:5,
 47:12, 95:1, 95:3,
 95:6, 104:5, 147:12,
 152:1, 158:5, 212:7,
 213:1
lived ^[6] - 31:2, 31:6,
 147:12, 184:15,
 184:17, 185:3
lives ^[1] - 116:12
living ^[10] - 10:12,
 10:14, 12:7, 28:8,
 58:12, 77:8, 98:2,
 116:14, 196:15,
 273:7
LLC ^[4] - 6:7, 6:10,
 123:2, 218:10
loading ^[14] - 230:15,
 238:18, 239:4,
 239:10, 242:2,
 242:11, 243:9,
 250:17, 251:3,
 251:14, 251:15,
 255:14, 255:18
loathed ^[1] - 15:18
lobby ^[1] - 267:17
local ^[1] - 263:15
located ^[5] - 7:5, 7:8,
 94:1, 178:3, 243:10

location ^[11] - 22:16,
43:10, 61:12,
220:18, 222:17,
231:16, 242:5,
245:13, 247:4,
253:16, 261:2

locations ^[2] - 144:7,
246:5

logical ^[6] - 59:1,
59:2, 66:10, 72:7,
72:9, 176:7

longstanding

^[1] - 13:8

look ^[22] - 8:10,
24:12, 25:1, 75:14,
78:12, 100:16,
131:1, 175:12,
189:10, 189:15,
194:2, 204:8, 207:6,
209:9, 217:13,
220:10, 221:2,
249:4, 250:13,
259:2, 259:13,
269:2

looked ^[4] - 64:17,
94:17, 96:10, 207:8

looking ^[8] - 46:17,
96:2, 97:15, 207:9,
245:11, 249:14,
249:18, 256:16

looks ^[1] - 204:16

loophole ^[1] - 150:14

loops ^[1] - 186:12

lose ^[4] - 143:12,
144:7, 145:13,
146:8

loses ^[2] - 150:16,
150:17

loss ^[3] - 57:7, 57:10,
165:8

lotus ^[1] - 257:16

Lou ^[1] - 54:12

LOU ^[15] - 55:3, 55:6,
56:14, 61:7, 62:1,
62:6, 62:12, 62:16,
63:3, 63:7, 63:12,
64:1, 79:8, 80:1,
80:17

loud ^[1] - 192:15

love ^[4] - 28:8, 51:2,
107:18, 232:2

low ^[2] - 191:15,
241:2

lower ^[2] - 12:9,

226:10
lowering [2] - 62:9,
 80:5

Lucia [1] - 213:12

LUCIA [1] - 213:12

luck [4] - 118:11,
 198:17, 216:7,
 275:3

lunch [3] - 233:8,
 233:9, 233:11

Lunder [1] - 127:10

M

Ma'am [1] - 148:9

MAAB [1] - 80:12

machine [1] - 224:16

magic [1] - 88:16

main [3] - 35:2, 35:6,
 41:12

maintain [1] - 45:6

maintained
 [2] - 120:17, 208:2

maintaining
 [4] - 226:3, 236:11,
 257:9, 257:10

majority [2] - 9:9,
 173:8

manage [1] - 38:7

manager [2] - 123:1,
 159:12

manages [1] - 250:13

managing
 [1] - 257:11

manner [1] - 18:3

mansard [1] - 201:1

marginal [1] - 59:6

Mark [1] - 101:11

marked [2] - 262:15,
 263:8

marker [1] - 88:16

marketplace
 [2] - 229:12, 229:14

Marsh [4] - 7:9, 8:4,
 20:7, 33:4

masonry [2] - 34:3,
 34:12

mass [1] - 153:7

Mass [59] - 2:10, 2:13,
 94:2, 123:1, 123:7,
 123:8, 123:9, 124:9,
 124:11, 124:15,
 125:6, 125:15,
 126:18, 127:1,

127:2, 127:7, 127:8,
 127:10, 127:13,
 127:17, 128:1,
 128:4, 128:6,
 128:14, 129:15,
 132:3, 134:3, 134:6,
 134:8, 134:14,
 136:2, 136:6,
 138:13, 140:4,
 141:13, 143:2,
 149:6, 149:16,
 156:11, 172:8,
 172:9, 172:16,
 173:1, 173:3, 173:5,
 173:7, 173:8, 173:9,
 174:4, 174:5, 175:9,
 175:12, 176:10,
 176:13, 217:6,
 243:13

Massachusetts

[6] - 1:6, 1:7, 5:14,
 54:11, 107:15,
 122:6

MASSACHUSETTS

[1] - 277:1

massing [3] - 102:2,
 127:7, 174:9

massive [1] - 27:4

master [1] - 109:8

match [4] - 160:9,
 188:18, 189:4,
 253:1

material [6] - 34:1,
 34:2, 34:11, 35:1,
 250:7, 250:8

materials [7] - 29:5,
 220:14, 247:17,
 247:18, 260:16,
 262:9, 262:17

math [1] - 13:13

matter [32] - 5:9,
 22:10, 22:12, 33:3,
 54:8, 80:6, 91:7,
 93:8, 103:5, 103:7,
 107:8, 113:13,
 113:15, 119:8,
 122:8, 147:4, 147:6,
 181:8, 191:9,
 191:11, 193:3,
 194:8, 199:8,
 209:15, 209:18,
 217:8, 231:1, 244:3,
 256:13, 267:8,
 272:2, 272:4

matters [2] - 21:16,
 31:14
maximize [1] - 205:15
meals [1] - 245:3
mean [36] - 16:2,
 21:12, 33:10, 33:11,
 47:7, 50:5, 51:2,
 57:13, 58:3, 60:11,
 61:5, 61:13, 64:4,
 66:7, 68:16, 69:4,
 75:9, 82:16, 87:1,
 97:14, 99:18, 126:1,
 135:4, 143:16,
 170:12, 171:5,
 192:8, 193:9, 204:4,
 231:14, 235:3,
 235:9, 242:1, 245:4,
 263:2, 271:11
meander [1] - 204:4
meaningful [1] - 32:8
means [6] - 174:8,
 186:6, 188:4, 202:4,
 214:18, 228:14
meant [3] - 204:6,
 225:2, 255:15
mechanical [1] - 65:9
mechanisms
 [1] - 84:16
meditation [1] - 99:3
medium [1] - 3:13
meet [6] - 38:3, 42:12,
 43:16, 82:5, 173:12,
 226:2
meeting [14] - 3:8,
 3:13, 3:17, 3:18,
 23:5, 163:17, 188:7,
 188:8, 188:9,
 231:15, 232:15,
 257:5, 257:6
meetings [4] - 23:6,
 128:15, 128:16,
 163:2
meets [2] - 187:5,
 208:14
member [3] - 34:4,
 259:4, 259:7
MEMBER [4] - 126:7,
 139:11, 147:7,
 148:2
Member [3] - 1:9, 1:9,
 1:10
members [13] - 6:10,
 8:5, 74:13, 83:5,
 89:14, 167:5, 214:7,

228:9, 228:12,
234:15, 254:13,
256:9, 268:15

Members ^[41] - 3:4,

5:2, 5:12, 6:3,
19:11, 22:5, 25:7,
29:12, 50:6, 54:2,
72:8, 81:6, 91:2,
93:2, 103:2, 107:2,
113:9, 119:2, 122:2,
122:15, 146:14,
154:9, 165:16,
169:10, 176:2,
181:2, 182:13,
183:16, 191:5,
199:2, 207:5,
207:15, 209:11,
217:2, 217:10,
236:2, 243:16,
259:12, 267:2,
270:6, 271:1

Members' ^[1] - 85:14

memorable

^[1] - 217:18

Memorandum

^[10] - 132:10,
134:12, 134:15,
135:3, 141:8,
141:10, 149:11,
164:11, 164:14,
165:3

memory ^[1] - 25:13

mention ^[5] - 23:9,
24:10, 45:7, 156:9,
217:17

mentioned ^[9] - 37:3,

41:18, 103:17,
160:1, 167:17,
208:11, 233:18,
258:13, 271:6

menu ^[1] - 256:10

menus ^[1] - 237:18

merely ^[2] - 10:17,
61:10

merit ^[2] - 49:13, 82:1

message ^[1] - 165:15

met ^[5] - 52:2, 133:13,
254:15, 260:8,
264:11

metal ^[2] - 35:3,

202:12

metur ^[1] - 227:14

MGH ^[1] - 93:15

mic ^[2] - 151:13,

166:13

MICHAEL

[24] - 158:4, 161:4,
161:17, 162:2,
162:9, 162:11,
162:15, 163:12,
163:15, 166:12,
166:15, 170:7,
170:12, 171:1,
171:7, 179:8, 244:6,
245:2, 245:8,
245:18, 246:8,
258:4, 258:8,
258:18

Michael ^[1] - 158:5

MICHELLE

[17] - 199:14,
199:18, 200:2,
200:7, 200:17,
201:6, 203:10,
203:16, 205:1,
205:9, 205:11,
206:2, 206:4,
206:12, 206:16,
207:4, 209:8

Michelle ^[2] - 199:14,

216:1

microphone

[4] - 95:4, 108:2,
199:10, 229:7

middle ^[3] - 144:18,

149:7, 190:13

midsize ^[1] - 241:7

midst ^[1] - 201:16

might ^[22] - 10:17,

11:3, 12:18, 20:2,
48:2, 73:4, 79:3,
80:7, 98:15, 159:9,
160:4, 162:11,
194:2, 228:16,
232:7, 233:14,
244:17, 244:18,
252:5, 252:11,
253:8, 253:12

mind ^[4] - 49:10,

81:12, 151:12,
218:13

mindful ^[3] - 223:18,

229:10, 236:9

mine ^[2] - 68:7,

181:18

minimal ^[3] - 101:4,

190:8, 201:13

minimize ^[2] - 23:16,

265:3

minimum ^[1] - 67:8

minor ^[3] - 178:17,
178:18, 183:18

minute ^[1] - 248:2

minutes ^[2] - 239:5,
241:13

MISHKIN ^[4] - 181:11,
181:12, 184:14,
185:1

Mishkin ^[2] - 181:12,
194:16

miss ^[1] - 96:2

missed ^[2] - 134:2,
134:10

Mission ^[1] - 210:7

Mitchell ^[2] - 114:13,
115:8

mix ^[1] - 207:16

mixed ^[1] - 139:18

model ^[1] - 78:3

modernize ^[1] - 64:18

modernized

^[1] - 64:17

modest ^[4] - 117:10,
197:11, 239:5,
274:3

modification

^[6] - 116:18, 183:18,
197:4, 215:5, 230:6,
273:12

modifications

^[4] - 34:11, 37:10,
37:17, 153:17

modified ^[5] - 73:16,
120:15, 121:3,
121:4, 154:2

modified ^[4] - 16:4,

118:2, 196:2,
211:16

modifying ^[1] - 46:16

moment ^[5] - 20:2,

209:4, 254:2,
254:11, 257:15

Monday ^[3] - 89:13,

121:5, 183:13

monolithic

^[2] - 268:12, 268:14

month ^[5] - 86:2,

202:9, 202:11,
208:11, 233:1

months ^[3] - 85:18,

128:11, 131:18

morning ^[5] - 233:10,

234:12, 240:11,
240:16, 241:1

mornings ^[1] - 244:18

most ^[16] - 8:12, 18:6,
25:2, 59:1, 111:8,
123:14, 135:14,
142:15, 142:16,
167:2, 173:3,
173:11, 194:1,
236:13, 240:18

mostly ^[3] - 88:10,
131:15, 145:18

motion ^[1] - 87:11

motor ^[1] - 13:12

MOU ^[4] - 150:2,
159:15, 160:2,
160:14

Mount ^[10] - 5:6, 7:6,
16:11, 17:15, 18:18,
20:6, 24:13, 28:6,
29:4, 59:11

mouth ^[1] - 110:18

move ^[7] - 13:7, 21:3,
39:9, 92:1, 122:11,
156:1, 173:2

moved ^[1] - 39:5

moves ^[22] - 31:18,
35:17, 51:15, 53:4,
87:13, 105:1, 105:7,
116:6, 117:13,
120:5, 177:5,
179:13, 195:15,
196:8, 197:14,
214:12, 215:17,
250:4, 264:8, 266:5,
272:15, 274:6

moving ^[2] - 170:18,
207:1

Mt ^[1] - 2:3

mudroom ^[4] - 269:2,
271:4, 273:4, 273:9

Muller ^[2] - 147:12,
147:14

multi ^[4] - 56:1, 78:17,
140:1, 201:12

multi-family
^[4] - 56:1, 78:17,
140:1, 201:12

mundane ^[1] - 21:16

municipal ^[1] - 235:4

Murray ^[3] - 267:15,
267:16

Murray's ^[1] - 269:16

must ^[3] - 88:9, 121:3,

121:4

mutual ^[1] - 192:7

N

nachos ^[1] - 232:7

name ^[24] - 5:13,
6:16, 93:13, 103:13,
107:11, 107:13,
107:16, 114:4,
139:6, 147:9,
147:11, 148:12,
151:14, 175:1,
181:9, 181:11,
181:17, 199:8,
210:6, 220:4,
221:10, 248:15,
267:9, 267:12

names ^[1] - 103:12

narrow ^[3] - 11:12,
32:6, 32:11

narrower ^[1] - 46:7

narrowness

^[1] - 11:13

National ^[1] - 94:18

nature ^[6] - 178:1,
178:17, 196:14,
242:9, 247:4,
252:15

near ^[1] - 158:16

nearby ^[1] - 18:6

neat ^[1] - 223:18

neater ^[1] - 208:9

necessarily ^[4] - 43:7,
67:12, 138:12,
175:2

necessary ^[5] - 49:7,
50:11, 109:1, 149:5,
215:5

need ^[48] - 16:5,
35:15, 38:4, 38:5,
39:9, 43:2, 43:3,
43:10, 44:4, 44:7,
47:3, 48:11, 58:15,
60:10, 64:14, 70:14,
74:1, 74:2, 80:7,
81:6, 85:10, 86:3,
86:14, 88:7, 111:16,
143:10, 145:8,
155:3, 156:16,
166:2, 193:10,
197:11, 199:15,
199:18, 215:2,
223:14, 227:12,

228:11, 230:3,
 231:6, 231:10,
 255:10, 258:8,
 259:18, 261:8,
 261:15, 268:4,
 273:6

needed ^[5] - 12:4,
 29:9, 115:18,
 128:18, 182:4

needs ^[13] - 41:10,
 42:1, 42:2, 81:3,
 81:12, 85:12,
 116:14, 136:8,
 150:12, 195:4,
 229:4, 234:13,
 273:3

negate ^[1] - 168:1

negated ^[1] - 150:3

negative ^[1] - 115:17

neglected
^[1] - 207:14

negotiated
^[1] - 158:18

negotiation ^[1] - 86:7

neighbor ^[8] - 29:3,
 31:2, 93:16, 103:14,
 141:1, 142:10,
 153:6, 194:4

neighbor's
^[1] - 135:17

Neighborhood
^[3] - 14:18, 179:6,
 179:7

neighborhood
^[53] - 23:7, 23:8,
 28:11, 32:12, 52:7,
 56:18, 69:10, 73:2,
 76:9, 76:12, 110:4,
 114:15, 114:16,
 115:14, 115:17,
 117:9, 127:3, 127:5,
 128:16, 129:5,
 129:15, 130:9,
 131:2, 135:13,
 135:15, 137:5,
 147:13, 148:18,
 149:3, 149:10,
 150:8, 151:1, 152:3,
 152:12, 153:4,
 158:8, 158:14,
 173:9, 177:14,
 177:17, 184:12,
 192:3, 192:16,
 197:12, 215:11,

224:9, 261:9,
264:16, 269:10,
269:13, 270:2,
272:11, 274:1

neighborhoods

[1] - 176:12

neighboring

[3] - 139:9, 208:17,
265:13

neighbors

[26] - 23:11, 27:5,
110:2, 110:11,
110:14, 114:9,
115:7, 129:18,
130:9, 130:12,
131:15, 133:4,
137:14, 146:7,
152:2, 158:16,
160:8, 169:16,
185:6, 189:9,
189:10, 192:14,
193:4, 194:2, 203:5,
209:2

never [2] - 58:9, 136:5

new [23] - 8:2, 8:6,

8:18, 14:4, 28:9,
42:8, 57:4, 58:11,
65:1, 65:5, 89:9,
98:2, 120:16,
120:18, 139:2,
186:5, 186:8,
186:14, 203:3,
222:6, 235:8,
250:13

New [2] - 21:6, 21:7

news [4] - 25:7, 27:9,

89:4, 95:1

next [12] - 20:18,

56:3, 78:15, 82:13,
83:3, 151:17,
163:17, 167:13,
186:2, 189:10,
263:7

next-door [5] - 78:15,

82:13, 83:3, 151:17,
189:10

nice [10] - 82:11,

101:5, 141:16,
153:8, 207:9,
207:17, 207:18,
228:3, 249:13

night [11] - 192:16,

192:17, 218:1,
231:11, 232:8,

232:11, 236:7,
 251:13, 259:5,
 259:8

Nine ^[1] - 155:8

nine ^[4] - 63:2, 63:8,
 109:3, 240:14

Nirvana ^[1] - 248:18

nobody ^[1] - 168:8

noise ^[4] - 16:2,
 110:2, 160:17,
 238:17

non ^[10] - 9:3, 70:12,
 73:15, 74:9, 75:3,
 75:4, 116:17, 197:3,
 215:4, 273:11

non-conforming
^[9] - 9:3, 70:12,
 73:15, 74:9, 75:4,
 116:17, 197:3,
 215:4, 273:11

non-conformities
^[1] - 75:3

noncompliant
^[2] - 38:17, 38:18

none ^[4] - 97:9, 140:4,
 209:14, 227:9

Norfolk ^[1] - 201:7

normal ^[2] - 247:13

normally ^[4] - 126:14,
 128:6, 129:14,
 141:1

north ^[2] - 212:8,
 213:3

North ^[20] - 123:9,
 124:11, 127:13,
 128:14, 128:15,
 132:3, 134:6,
 134:14, 138:13,
 140:3, 141:13,
 158:7, 172:9, 173:6,
 173:9, 175:9,
 175:12, 179:6,
 179:8

NOT ^[1] - 277:13

Notary ^[2] - 277:3,
 277:9

note ^[10] - 32:17,
 104:7, 114:1,
 114:11, 117:6,
 164:4, 178:11,
 215:10, 273:18,
 276:5

noted ^[2] - 255:8,
 276:15

notes ^[3] - 55:10,
 93:13, 95:12
nothing ^[6] - 25:8,
 154:14, 215:14,
 218:2, 220:9, 242:9
notice ^[4] - 8:11, 9:14,
 20:9, 247:14
noticeable ^[1] - 100:3
noticed ^[4] - 79:12,
 137:11, 250:1,
 250:2
notices ^[1] - 247:12
notified ^[1] - 162:2
notifying ^[1] - 3:10
noting ^[1] - 17:8
notion ^[1] - 234:15
November ^[1] - 137:7
nuisance ^[3] - 52:12,
 193:6, 265:14
nullifying ^[6] - 32:15,
 117:4, 178:9, 197:8,
 215:8, 273:16
number ^[19] - 3:15,
 7:1, 8:8, 15:3, 44:2,
 44:8, 44:13, 45:4,
 69:6, 71:17, 78:2,
 95:9, 109:17,
 115:13, 159:13,
 177:14, 214:3,
 230:8, 247:5
nurse ^[1] - 93:15

O

o'clock ^[2] - 232:5,
 232:11
O'Grady ^[2] - 1:11,
 88:1
O'GRADY ^[6] - 80:10,
 85:17, 88:2, 112:14,
 120:2, 120:13
objected ^[1] - 130:7
objection ^[5] - 15:12,
 129:5, 129:16,
 129:17, 169:17
objections
^[1] - 161:13
observation
^[1] - 252:14
observe ^[1] - 17:14
obtained ^[1] - 73:15
obvious ^[1] - 25:2
obviously ^[6] - 60:8,
 156:1, 178:15,

183:17, 238:7,
272:6

occasionally

[1] - 176:8

occupancies

[1] - 188:5

occupancy

[1] - 274:4

occupant [2] - 52:14,

265:16

occupants

[4] - 197:1, 215:15,

273:4, 273:5

occupied [1] - 29:18

occupies [1] - 196:16

occur [2] - 50:9,

225:16

occurring [1] - 17:15

occurs [3] - 224:14,

239:14, 243:12

odd [3] - 100:9, 138:9,

174:12

oddly [2] - 100:5,

144:18

odds [2] - 173:17,

174:3

OF [6] - 1:1, 1:2,

277:1, 277:13,

277:13, 277:14

off-street [1] - 44:17

offense [1] - 133:6

offer [3] - 228:3,

232:6, 258:2

offering [6] - 227:15,

227:16, 229:13,

261:12, 265:12

offerings [3] - 226:6,

226:7, 265:12

office [8] - 7:7,

126:13, 140:14,

140:15, 143:7,

151:18, 173:4,

225:12

officer [1] - 210:7

Offices [1] - 122:17

offices [2] - 5:14,

163:6

OFFICIAL [1] - 1:16

often [3] - 33:15,

65:2, 231:6

oftentimes [1] - 124:8

old [10] - 22:16, 24:5,

62:14, 109:3,

169:11, 202:9,

202:11, 208:7,
208:11, 221:5
older [2] - 140:7,
273:3
on-line [1] - 95:12
on-site [2] - 45:7,
169:13
once [8] - 12:18, 14:5,
88:5, 134:13,
168:17, 169:7,
237:1, 239:5
one [114] - 4:11, 6:5,
6:7, 6:10, 10:17,
11:6, 12:10, 13:7,
13:11, 14:5, 16:3,
16:16, 18:2, 22:2,
23:10, 23:14, 24:11,
28:17, 36:17, 37:11,
38:6, 38:12, 39:9,
39:13, 40:1, 40:13,
43:5, 44:17, 46:3,
58:18, 59:13, 60:3,
62:14, 63:10, 69:12,
71:18, 78:11, 83:1,
91:17, 94:2, 95:7,
96:7, 96:12, 97:11,
98:15, 104:12,
108:13, 109:12,
109:15, 123:16,
124:1, 125:14,
126:9, 128:4,
133:17, 134:1,
136:4, 137:18,
138:10, 143:2,
143:3, 144:9,
144:17, 145:1,
148:4, 154:6,
163:17, 164:15,
165:18, 172:8,
172:11, 174:10,
176:13, 183:12,
186:4, 189:1, 189:2,
189:7, 191:13,
192:1, 198:5, 198:6,
203:8, 205:1, 206:3,
207:18, 220:11,
223:6, 223:7,
227:13, 228:14,
228:15, 228:18,
232:4, 232:16,
232:18, 233:1,
233:16, 234:7,
240:1, 241:11,
241:15, 244:7,

244:9, 245:1,
 248:14, 252:13,
 253:1, 253:13,
 255:15, 269:6,
 269:11, 272:6
one's ^[1] - 13:5
ones ^[2] - 196:7,
 206:1
open ^[35] - 3:11, 20:4,
 22:6, 22:10, 98:12,
 103:4, 113:12,
 136:11, 136:16,
 137:1, 147:3, 151:1,
 159:7, 191:9,
 205:15, 209:15,
 214:7, 228:14,
 231:16, 231:17,
 232:3, 232:10,
 232:15, 232:16,
 233:5, 233:6,
 233:12, 234:6,
 236:13, 237:5,
 237:7, 240:12,
 240:17, 243:18,
 272:1
operate ^[3] - 227:1,
 257:3, 266:6
operating ^[2] - 223:4,
 238:7
operation ^[10] - 3:15,
 52:8, 66:3, 223:1,
 227:14, 230:17,
 237:2, 248:5, 260:9,
 265:8
operations
^[2] - 210:7, 226:1
operator ^[3] - 221:7,
 224:3, 236:18
opinion ^[1] - 254:3
opportunities
^[1] - 7:17
opportunity ^[11] - 8:6,
 9:8, 56:6, 65:10,
 72:3, 82:4, 86:8,
 86:11, 162:14,
 173:12, 224:5
oppose ^[1] - 161:11
opposed ^[4] - 17:4,
 78:16, 163:2,
 261:17
opposite ^[2] - 213:2,
 251:18
opposition
^[4] - 32:18, 195:2,

197:12, 274:1
option [2] - 228:2,
 233:10
options [1] - 232:6
order [9] - 3:9, 48:13,
 222:18, 231:7,
 245:7, 257:3, 260:3,
 261:13, 266:6
Ordinance [46] - 17:9,
 32:4, 32:16, 36:13,
 36:16, 39:8, 49:1,
 52:1, 52:10, 53:2,
 58:5, 58:18, 72:8,
 73:13, 73:18, 75:6,
 76:7, 77:2, 77:4,
 116:10, 117:5,
 129:2, 130:16,
 153:5, 155:9,
 155:11, 165:7,
 167:15, 168:7,
 173:10, 175:6,
 175:8, 177:9,
 178:10, 187:5,
 192:9, 196:12,
 197:9, 214:16,
 215:9, 220:13,
 264:10, 266:3,
 273:1, 273:17
ordinance
 [2] - 222:11, 235:4
oriented [1] - 151:7
original [6] - 75:4,
 158:11, 158:14,
 168:12, 211:3,
 276:1
Original [2] - 2:3, 2:5
originally [2] - 110:5,
 201:10
otherwise [4] - 53:1,
 170:10, 190:4,
 266:2
Otto [2] - 252:7,
 255:12
ought [1] - 46:8
outdoor [3] - 254:1,
 254:6, 265:5
outside [2] - 257:9,
 263:11
overall [3] - 20:1,
 71:18, 175:7
overcomes
 [1] - 176:7
overcrowding
 [2] - 69:4, 69:9

overhang ^[1] - 151:6

overhanging

^[1] - 150:18

overlay ^[15] - 123:7,

123:8, 123:10,

125:16, 132:4,

134:14, 136:3,

136:6, 149:6, 172:9,

173:14, 174:4,

175:9, 176:11,

178:4

Overlay ^[4] - 128:1,

128:14, 138:13,

138:14

oversaw ^[1] - 155:9

oversight ^[1] - 221:4

overwhelming

^[1] - 14:17

owing ^[6] - 32:10,

116:15, 178:1,

197:2, 215:3,

273:10

own ^[6] - 151:16,

168:4, 171:17,

183:17, 220:3,

245:9

owned ^[1] - 7:10

owner ^[18] - 29:1,

29:17, 29:18, 38:10,

54:14, 54:15, 55:1,

56:4, 80:13, 85:11,

123:2, 146:1, 202:8,

210:13, 212:9,

213:3, 267:10

owner-occupied

^[1] - 29:18

owners ^[5] - 24:3,

30:4, 38:6, 39:16,

257:5

ownership ^[1] - 6:5

owns ^[1] - 6:11

P

P-O-K-E ^[1] - 219:2

p.m ^[23] - 1:4, 3:3,

5:1, 54:1, 87:15,

88:15, 89:13, 91:1,

93:1, 107:1, 119:1,

119:15, 120:6,

120:17, 121:5,

122:1, 181:1,

183:13, 199:1,

217:1, 239:8, 267:1,

275:6

package [3] - 182:8,
182:9, 203:7

packages [1] - 7:1

packaging

[2] - 262:10, 262:17

packed [1] - 69:10

packet [1] - 206:4

page [12] - 36:2,

41:14, 41:16, 105:9,

117:17, 179:17,

189:16, 216:3,

218:3, 236:13,

247:14, 274:16

PAGE [2] - 2:2, 276:7

pages [2] - 216:2,

274:16

paid [1] - 51:9

pallet [1] - 241:11

pallets [4] - 240:1,

241:13, 241:15,

251:15

Palmer [2] - 243:9,

243:12

paper [1] - 218:3

paragraph

[1] - 167:13

parcel [4] - 138:3,

142:14, 142:18,

168:2

parents [1] - 268:2

park [5] - 124:12,

225:3, 245:14,

255:15, 262:3

parked [1] - 13:5

parking [62] - 12:12,

13:1, 36:12, 36:14,

36:17, 37:6, 37:8,

38:4, 38:16, 38:17,

39:1, 39:15, 40:2,

40:7, 40:11, 40:15,

41:5, 42:2, 43:8,

44:17, 45:7, 45:9,

46:9, 46:13, 48:12,

48:14, 48:16, 48:18,

49:1, 49:4, 49:5,

51:18, 52:11, 52:17,

53:5, 56:3, 56:12,

56:13, 56:15, 60:11,

68:2, 77:17, 130:6,

138:18, 141:15,

141:18, 142:7,

149:13, 149:14,

162:6, 163:5, 163:7,

238:17, 241:16,
242:14, 245:17,
246:1, 246:6, 251:1,
260:11, 260:13

part ^[29] - 23:11, 56:5,
58:3, 74:5, 76:13,
83:16, 96:13, 123:6,
123:9, 124:17,
125:2, 125:13,
127:8, 127:9,
129:16, 129:17,
135:5, 136:1, 136:6,
136:10, 137:3,
137:5, 160:2, 179:3,
187:2, 190:11,
246:11, 247:3,
268:10

partially ^[1] - 195:1

participating

^[1] - 257:10

particular ^[6] - 24:12,

127:18, 177:13,
220:18, 223:5,
261:2

particularly

^[1] - 130:1

parties ^[2] - 161:8,

161:12

partners ^[1] - 257:8

parts ^[3] - 138:1,

186:4, 265:2

party ^[1] - 162:16

passageway

^[1] - 99:2

passed ^[1] - 190:1

past ^[3] - 148:16,

169:15, 207:12

Patrick ^[16] - 1:10,

3:5, 5:4, 54:4, 79:2,
91:4, 93:4, 100:7,
107:4, 119:4, 122:4,
177:2, 181:4, 199:4,
217:4, 267:4

PATRICK ^[42] - 29:14,

30:3, 30:6, 30:9,
30:16, 31:10, 44:4,
44:7, 44:11, 60:13,
61:17, 62:3, 62:9,
62:15, 63:1, 63:5,
63:8, 63:17, 64:4,
64:10, 73:4, 73:7,
79:3, 79:11, 79:16,
80:3, 80:12, 81:4,
99:4, 99:9, 99:13,

100:5, 100:8,
 100:13, 101:16,
 102:2, 102:9,
 102:13, 102:16,
 176:4, 222:14,
 229:1
Patrick's ^[3] - 56:2,
 77:18, 102:6
patrons ^[2] - 261:17,
 262:16
patterns ^[2] - 52:3,
 264:13
pay ^[3] - 22:1, 254:16,
 255:1
Paz ^[1] - 213:12
PAZ ^[1] - 213:12
pedestrian
^[3] - 124:17, 225:16,
 255:10
pediment ^[1] - 188:17
Pentecostal
^[3] - 210:8, 210:15,
 211:5
people ^[27] - 5:18,
 23:13, 69:7, 86:3,
 88:15, 103:11,
 104:5, 115:5, 124:8,
 126:4, 131:2,
 135:14, 147:14,
 150:2, 159:4, 170:9,
 192:18, 212:3,
 217:18, 219:14,
 235:7, 236:6,
 241:14, 248:16,
 262:3, 263:2, 265:7
people's ^[1] - 114:1
per ^[5] - 16:14, 56:11,
 61:3, 71:16, 72:2
percent ^[3] - 10:15,
 113:3, 188:16
perfect ^[2] - 176:5,
 176:17
perhaps ^[3] - 6:7,
 84:17, 160:18
permit ^[5] - 11:4,
 47:15, 128:11,
 128:12, 247:2
Permit ^[39] - 12:17,
 36:11, 38:5, 45:3,
 45:17, 46:9, 46:16,
 46:17, 47:5, 48:10,
 49:6, 49:13, 51:12,
 51:17, 52:2, 53:4,
 58:6, 70:14, 73:15,

74:2, 78:8, 91:17,
 128:13, 137:7,
 137:10, 206:10,
 211:7, 222:18,
 223:1, 224:1,
 235:18, 246:18,
 253:2, 260:3, 260:6,
 264:7, 264:12,
 266:6

Permits ^[1] - 128:18

permitted ^[1] - 52:9

permutable

^[1] - 102:10

person ^[5] - 3:10,

104:1, 104:3, 214:1,
 233:1

personal ^[1] - 236:2

personally ^[1] - 47:9

persons ^[2] - 263:18,
 264:5

perspective

^[2] - 84:13, 242:11

perspectives

^[2] - 24:18, 25:1

perusing ^[1] - 207:6

Pete ^[1] - 139:3

PETER ^[37] - 93:9,

93:11, 94:10, 94:14,

94:17, 95:6, 96:8,

96:14, 96:17, 97:2,

97:8, 97:12, 97:15,

97:18, 98:6, 98:12,

99:1, 99:12, 99:16,

100:4, 104:10,

106:1, 123:18,

139:6, 139:13,

139:17, 142:3,

142:12, 142:15,

143:5, 144:13,

144:16, 145:10,

145:15, 146:3,

146:17, 147:1

Peter ^[6] - 93:13,

137:17, 139:6,

139:7, 158:10,

179:15

Peter's ^[1] - 133:8

petition ^[9] - 115:1,

115:3, 126:5,

135:16, 135:17,

147:14, 148:1,

171:12, 203:2

petitioner ^[15] - 16:4,

32:9, 87:17, 115:4,

116:12, 117:16,
 119:12, 120:11,
 122:18, 128:9,
 154:1, 179:1, 261:3,
 266:5

petitioner's

[1] - 121:2

petitions [1] - 211:8

PH [1] - 199:12

phase [1] - 254:13

phones [2] - 254:16,
 255:1

phonetic [2] - 86:9,
 192:6

phonetic [1] - 28:5

photo [2] - 19:9,
 206:5

photos [1] - 206:5

physical [4] - 220:13,
 220:16, 260:15,
 260:18

physically [1] - 190:2

pick [5] - 120:1,
 190:3, 223:12,
 243:12, 245:12

picked [2] - 174:14,
 243:11

picking [2] - 20:14,
 243:14

picks [1] - 186:12

picture [2] - 132:17,
 220:10

pictures [1] - 208:1

piece [4] - 10:11,
 20:10, 208:4,
 249:11

pieces [1] - 249:9

Pines [1] - 158:6

Place [3] - 22:15,
 29:2, 246:17

place [9] - 83:2,
 84:16, 193:5, 202:4,
 228:9, 229:2, 229:3,
 237:8, 262:3

placement [1] - 3:15

plain [1] - 136:7

plan [15] - 41:15,
 50:16, 178:14,
 204:10, 204:13,
 204:14, 208:9,
 211:6, 212:11,
 212:14, 213:4,
 213:8, 224:6, 252:5,
 254:3

planned ^[1] - 160:15

Planning ^[6] - 128:12,
128:17, 129:4,
129:7, 131:4,
158:13

planning ^[3] - 175:14,
176:7, 264:1

plans ^[46] - 25:18,
26:5, 26:8, 28:9,
34:3, 34:13, 34:15,
34:16, 34:17, 36:1,
41:8, 53:6, 57:4,
71:11, 84:3, 89:9,
97:5, 97:6, 102:6,
105:9, 109:6,
117:16, 118:2,
121:2, 121:7, 154:2,
160:13, 179:15,
185:7, 196:1, 196:2,
197:16, 204:8,
207:6, 210:17,
211:13, 211:15,
216:1, 245:3, 254:1,
269:16, 274:9,
274:10, 274:15

plates ^[3] - 61:3, 61:5,
191:16

play ^[1] - 98:14

pleased ^[2] - 13:15,
155:11

pleasing ^[1] - 9:15

pleasure ^[2] - 47:18,
257:5

plentiful ^[1] - 257:18

plumbing ^[1] - 65:6

plus ^[1] - 43:2

point ^[41] - 15:17,
22:5, 34:10, 35:14,
74:6, 75:9, 83:2,
89:8, 103:2, 113:10,
118:1, 135:10,
135:16, 137:9,
146:11, 146:12,
146:14, 153:14,
154:7, 155:15,
163:1, 170:8, 171:5,
176:1, 183:17,
189:7, 190:1, 191:6,
192:12, 202:5,
202:16, 204:8,
209:15, 235:9,
237:15, 242:7,
242:17, 245:17,
246:3, 255:6, 270:7

point's ^[1] - 165:11
pointed ^[3] - 21:9,
 110:6, 192:18
pointing ^[3] - 51:7,
 170:14, 211:12
points ^[2] - 171:17,
 239:1
Pokay ^[4] - 219:9,
 219:11, 219:17,
 219:18
Pokay) ^[4] - 218:14,
 219:3, 219:5, 220:4
Poke ^[21] - 218:9,
 218:10, 218:14,
 218:15, 219:3,
 219:4, 219:9,
 219:13, 219:14,
 219:16, 219:17,
 219:18, 220:4,
 223:3, 227:7, 232:7,
 248:17, 257:3,
 261:11
POKE ^[1] - 218:10
poke ^[1] - 219:11
policy ^[2] - 74:4, 82:3
pop ^[1] - 223:10
popular ^[1] - 17:12
population
^[2] - 72:16, 225:10
porch ^[6] - 9:14,
 14:13, 19:17, 35:1,
 35:7, 268:11
porches ^[2] - 17:12,
 18:14
Porter ^[3] - 127:9,
 127:14, 167:18
portion ^[2] - 174:5,
 201:8
position ^[4] - 76:18,
 130:15, 164:3,
 164:7
positioned ^[1] - 77:15
possibility ^[1] - 169:8
possibly ^[1] - 185:4
post ^[1] - 7:7
posted ^[2] - 247:15,
 247:17
posting ^[2] - 88:9,
 120:15
postpone ^[1] - 169:4
potential ^[4] - 104:13,
 230:5, 245:18,
 252:3
potentially ^[1] - 230:1

pour [2] - 268:13,
 268:14
practical [1] - 190:7
practice [1] - 13:9
pre [1] - 40:7
pre-existing [1] - 40:7
preamble [1] - 68:18
precarious
 [2] - 124:17, 208:12
precautions
 [2] - 23:15, 27:11
precedence
 [1] - 102:17
precedent [1] - 81:5
predecessors
 [1] - 102:18
prefer [1] - 86:15
preference [1] - 50:8
premise [1] - 257:9
premises
 [4] - 234:16, 244:9,
 263:17, 264:3
Prentiss [2] - 95:1,
 95:7
prepared [9] - 7:1,
 10:4, 36:1, 101:2,
 102:7, 117:16,
 197:16, 216:1,
 274:15
prepping [1] - 240:15
presence [1] - 17:18
present [4] - 8:18,
 13:2, 86:10, 147:8
presentation
 [4] - 159:11, 171:18,
 182:3, 209:7
presented [7] - 29:5,
 50:16, 89:10, 100:6,
 100:10, 176:15,
 269:16
presents [1] - 98:8
preserve [1] - 23:18
pressed [1] - 72:1
presumably
 [3] - 76:3, 142:9,
 259:10
presume [2] - 29:17,
 249:16
presumed [1] - 170:6
presuming [1] - 79:14
pretend [1] - 14:10
pretty [10] - 95:16,
 109:12, 155:16,
 190:10, 195:7,

208:18, 240:18,
 241:17, 246:17,
 252:8

prevailing ^[1] - 71:16

prevent ^[3] - 32:7,
 69:3, 177:15

previous ^[4] - 102:14,
 125:2, 231:15,
 240:7

previously ^[1] - 91:9

primarily ^[1] - 261:17

primary ^[1] - 233:12

principal ^[2] - 136:7,
 230:14

principals ^[1] - 6:6

privacy ^[3] - 16:1,
 17:7, 193:17

problem ^[10] - 37:14,
 45:1, 47:7, 48:8,
 49:11, 104:12,
 104:13, 139:17,
 145:2, 160:17

problems ^[5] - 49:11,
 102:6, 178:5, 237:9,
 260:10

procedural
^[2] - 128:9, 135:8

proceed ^[10] - 36:1,
 51:14, 76:4, 105:8,
 117:15, 179:14,
 184:4, 197:15,
 215:18, 274:14

proceedings
^[2] - 226:14, 277:5

process ^[11] - 128:11,
 131:6, 133:14,
 137:6, 137:8, 146:7,
 155:16, 156:6,
 156:17, 157:2,
 254:7

produce ^[1] - 260:13

product ^[11] - 65:3,
 65:4, 222:8, 224:4,
 224:8, 225:8, 226:5,
 228:5, 239:17,
 241:2, 241:4

professional
^[2] - 140:15, 163:6

profile ^[1] - 14:16

program ^[2] - 12:6,
 268:5

progress ^[1] - 23:1

project ^[24] - 6:12,
 28:7, 29:6, 94:6,

96:4, 117:7, 132:6,
 132:7, 132:9,
 132:12, 137:2,
 168:13, 175:7,
 177:15, 178:12,
 179:2, 186:4,
 188:10, 188:14,
 201:1, 203:6,
 215:11, 267:11

projecting ^[1] - 14:14

projection ^[3] - 10:6,
 10:12, 18:1

prominent ^[2] - 8:12,
 10:6

promote ^[2] - 136:4,
 150:7

promoted ^[1] - 130:16

promotes ^[1] - 13:17

pronounce
^[2] - 114:3, 218:13

pronounced
^[1] - 219:4

pronunciation
^[2] - 219:7, 220:1

properly ^[1] - 262:16

properties ^[1] - 78:13

property ^[41] - 6:11,
 7:17, 23:14, 24:2,
 24:9, 27:1, 27:3,
 27:6, 29:1, 32:8,
 48:12, 54:15, 54:17,
 55:1, 55:2, 56:1,
 56:6, 56:16, 57:18,
 59:1, 67:8, 72:10,
 91:11, 96:3, 123:2,
 128:10, 128:12,
 128:13, 142:9,
 156:10, 157:5,
 158:11, 201:17,
 204:4, 210:11,
 210:16, 212:14,
 213:7, 217:14,
 220:3, 270:12

property's ^[1] - 211:3

proponents
^[1] - 156:12

proposal ^[14] - 9:5,
 33:1, 33:2, 105:4,
 114:5, 124:18,
 125:2, 125:3, 132:8,
 135:12, 158:15,
 185:5, 224:4, 265:4

propose ^[2] - 52:16,
 259:3

proposed ^[16] - 8:17,
 29:3, 41:15, 52:5,
 61:17, 101:3, 114:6,
 115:9, 156:11,
 158:11, 189:11,
 189:17, 265:10,
 265:16, 265:18,
 266:6

proposing ^[8] - 52:11,
 63:2, 97:6, 99:4,
 108:4, 125:5, 145:7,
 187:4

pros ^[1] - 149:5

protect ^[1] - 27:11

protecting
^[1] - 176:11

protection ^[1] - 202:8

proves ^[1] - 47:17

provide ^[8] - 17:16,
 58:13, 80:8, 81:1,
 96:12, 175:4, 224:8,
 262:14

provided ^[4] - 74:17,
 81:10, 262:11,
 262:18

provides ^[1] - 49:7

providing ^[3] - 69:14,
 80:13, 233:11

provisions ^[9] - 32:4,
 46:16, 58:18, 76:5,
 116:10, 177:9,
 196:12, 214:16,
 273:1

prune ^[1] - 27:7

pruning ^[1] - 27:6

public ^[30] - 22:6,
 22:10, 29:11, 32:14,
 33:11, 82:3, 89:15,
 103:5, 104:14,
 113:13, 117:3,
 147:4, 172:5,
 175:18, 178:8,
 191:9, 194:11,
 195:9, 197:7,
 209:15, 214:6,
 215:7, 220:17,
 244:1, 260:11,
 260:13, 261:1,
 272:2, 272:13,
 273:15

Public ^[3] - 254:8,
 277:3, 277:9

pull ^[4] - 112:16,
 112:17, 149:6

pulled [2] - 112:15
purchased [5] - 31:8,
 128:10, 201:14,
 210:8, 268:3
purchasing
 [1] - 210:15
purely [1] - 193:3
purpose [13] - 32:16,
 53:1, 99:8, 117:5,
 150:9, 167:8,
 167:15, 175:8,
 178:10, 197:9,
 215:9, 266:3,
 273:17
purposes [3] - 37:14,
 173:14, 174:11
pursuant [1] - 260:6
pursue [2] - 83:4,
 254:5
pursuing [1] - 169:3
purview [1] - 231:2
push [1] - 143:11
pushed [1] - 144:17
pushes [1] - 127:6
pushing [2] - 144:5,
 174:9
put [6] - 45:10, 76:17,
 110:18, 187:5,
 223:11, 234:8
puts [1] - 171:2
putting [3] - 186:8,
 201:16, 264:3

Q

qualify [4] - 11:4,
 75:9, 78:8, 168:15
quality [2] - 174:18,
 175:3
quantity [2] - 45:14,
 46:10
Queen [2] - 95:17,
 101:1
questions
 [11] - 19:10, 22:5,
 29:12, 89:16, 113:9,
 146:13, 190:15,
 191:5, 209:11,
 244:7, 256:8
quick [1] - 200:9
quickly [4] - 139:8,
 212:15, 213:9,
 241:18
quiet [1] - 192:17

QUINN ^[15] - 123:18,
 139:6, 139:13,
 139:17, 142:3,
 142:12, 142:15,
 143:5, 144:13,
 144:16, 145:10,
 145:15, 146:3,
 146:17, 147:1

Quinn ^[3] - 139:7,
 179:15

quirkiness ^[1] - 98:7

quirky ^[1] - 95:17

quite ^[10] - 33:15,
 37:13, 54:17, 57:2,
 144:4, 155:14,
 224:14, 253:8,
 257:14, 274:3

quorum ^[1] - 259:10

R

R-A-M-A-S-W-A-M-Y

^[1] - 181:17

R-A-S-H-M-I

^[1] - 181:16

RAFFERTY

^[150] - 5:11, 6:2,
 6:15, 6:18, 15:6,
 15:9, 16:8, 16:13,
 16:18, 17:6, 18:11,
 19:6, 19:13, 25:10,
 26:13, 26:17, 30:7,
 30:12, 33:5, 33:10,
 33:16, 34:6, 34:9,
 34:16, 35:4, 35:9,
 37:4, 37:9, 37:15,
 38:2, 39:2, 39:11,
 39:18, 40:18, 41:4,
 41:9, 41:13, 41:17,
 42:5, 42:10, 42:13,
 43:1, 44:15, 45:13,
 46:2, 46:5, 46:12,
 47:14, 48:5, 48:15,
 49:3, 49:17, 50:4,
 51:6, 53:14, 54:9,
 55:9, 56:15, 58:2,
 59:13, 59:16, 60:5,
 60:9, 60:15, 61:9,
 63:11, 64:7, 64:11,
 66:6, 66:16, 67:2,
 70:4, 70:10, 70:17,
 71:4, 71:7, 73:12,
 75:8, 75:13, 75:18,
 76:10, 77:1, 78:5,

78:11, 79:6, 79:15,
 81:17, 83:14, 84:2,
 84:9, 85:4, 85:9,
 86:5, 86:16, 87:9,
 87:12, 88:6, 89:4,
 90:5, 217:9, 217:16,
 218:6, 218:9,
 218:17, 219:6,
 219:10, 219:15,
 220:5, 221:3,
 221:11, 221:15,
 221:18, 222:5,
 222:9, 222:12,
 222:16, 223:13,
 224:17, 225:1,
 225:5, 226:18,
 228:7, 229:4, 229:8,
 230:13, 230:18,
 231:12, 235:1,
 235:6, 236:8,
 237:17, 238:9,
 239:3, 239:9,
 239:13, 242:1,
 242:8, 242:15,
 243:7, 248:8, 251:4,
 251:8, 254:2, 255:2,
 255:17, 256:11,
 258:9, 258:14,
 259:18, 266:14

Rafferty ^[10] - 5:13,
 6:3, 25:9, 26:11,
 31:17, 54:10, 89:2,
 93:18, 217:11,
 262:12

Rafferty's ^[1] - 49:14

raised ^[7] - 68:5,
 159:14, 161:13,
 185:2, 204:7, 230:9,
 235:11

raising ^[2] - 62:10,
 62:11

RAMASWAMY

^[16] - 181:13,
 181:16, 182:7,
 182:11, 182:17,
 183:8, 184:6, 185:9,
 185:16, 186:1,
 191:2, 193:13,
 196:5, 198:1, 198:3,
 198:6

Ramaswamy

^[1] - 181:13

range ^[1] - 85:12

rare ^[1] - 172:18

rarely ^[1] - 173:5
RASHMI ^[16] - 181:13,
 181:16, 182:7,
 182:11, 182:17,
 183:8, 184:6, 185:9,
 185:16, 186:1,
 191:2, 193:13,
 196:5, 198:1, 198:3,
 198:6
Rashmi ^[1] - 181:13
rate ^[2] - 229:9, 255:3
rather ^[11] - 10:6,
 48:2, 66:7, 74:7,
 83:6, 150:8, 155:3,
 160:9, 169:1,
 197:11, 274:2
rational ^[1] - 173:11
re ^[1] - 47:4
re-advertise ^[1] - 47:4
reach ^[1] - 170:4
reached ^[1] - 160:3
reaching ^[1] - 162:18
read ^[18] - 43:4,
 76:13, 94:8, 95:8,
 102:13, 104:2,
 109:6, 114:1, 210:4,
 210:5, 212:3, 212:6,
 214:1, 219:16,
 258:7, 258:8, 259:3,
 276:14
Reading ^[8] - 29:1,
 114:10, 115:7,
 119:12, 194:14,
 210:5, 212:18,
 257:2
reading ^[2] - 171:18,
 276:5
reads ^[1] - 103:12
ready ^[18] - 31:14,
 51:13, 104:16,
 116:3, 116:4, 116:5,
 176:4, 177:4, 179:1,
 195:10, 195:11,
 195:12, 195:14,
 214:8, 214:9,
 214:11, 259:16,
 272:13
real ^[2] - 208:5,
 268:16
realities ^[1] - 176:8
reality ^[2] - 58:3, 58:8
realized ^[2] - 137:13,
 167:12
really ^[54] - 9:11,

11:7, 11:10, 11:14,
 12:3, 12:7, 14:15,
 38:13, 67:5, 67:8,
 69:16, 76:1, 80:6,
 84:6, 98:6, 100:13,
 101:2, 101:18,
 110:13, 134:7,
 134:9, 135:5,
 135:16, 135:17,
 137:5, 152:3,
 152:12, 156:17,
 156:18, 172:10,
 173:13, 173:16,
 174:6, 174:18,
 184:18, 186:18,
 194:1, 207:13,
 207:17, 208:1,
 208:16, 223:13,
 231:18, 232:8,
 237:2, 240:11,
 244:16, 247:16,
 249:2, 249:5, 250:2,
 250:3, 253:4

rear ^[9] - 8:14, 26:14,
 141:16, 189:8,
 189:9, 200:13,
 210:17, 212:11,
 213:5

reason ^[11] - 4:11,
 9:6, 21:11, 59:8,
 68:5, 150:11,
 152:15, 200:12,
 205:12, 237:10,
 276:6

REASON ^[6] - 276:8,
 276:9, 276:10,
 276:11, 276:12,
 276:13

reasonable ^[4] - 3:13,
 12:7, 116:1, 179:4

reasons ^[5] - 129:6,
 154:6, 164:1,
 257:13, 271:6

reassemble
^[1] - 144:6

rebuild ^[4] - 55:12,
 57:17, 58:7, 74:1

rebuilding ^[4] - 58:7,
 58:10, 66:10, 76:8

rebuilt ^[3] - 70:13,
 74:10, 74:18

receipt ^[6] - 28:17,
 113:18, 119:11,
 171:12, 171:15,

210:3
receive ^[1] - 143:10
received ^[5] - 7:18,
 29:5, 141:2, 218:2,
 226:15
recent ^[3] - 130:11,
 130:14, 210:16
recently ^[2] - 76:5,
 123:14
receptacle ^[1] - 263:5
receptacles
^[2] - 226:3, 262:16
recognize ^[6] - 6:8,
 11:11, 14:8, 47:16,
 72:7, 140:2
recognized
^[1] - 145:8
recognizes ^[1] - 17:9
recollection ^[1] - 41:8
recommend
^[1] - 112:9
recommended
^[1] - 134:8
reconsider
^[2] - 162:12, 168:18
reconstructed
^[1] - 75:1
reconstruction
^[3] - 56:5, 58:4, 72:4
record ^[9] - 5:13,
 54:10, 122:16,
 164:13, 217:10,
 267:8, 270:8,
 276:15, 277:5
RECORD ^[1] - 1:16
recorder ^[1] - 4:6
recording ^[4] - 3:11,
 4:1, 4:2, 4:6
recordings ^[1] - 4:3
records ^[2] - 4:4
recreate ^[1] - 21:9
rectangular
^[1] - 20:17
recyclable ^[1] - 263:8
recycling ^[1] - 263:5
red ^[1] - 132:7
redesign ^[1] - 177:11
redevelopment
^[2] - 29:3, 124:3
redoing ^[1] - 186:11
reduce ^[5] - 36:12,
 37:8, 43:7, 265:6,
 270:16
reduced ^[1] - 260:10

reduction [3] - 29:8,
 40:2, 141:3
reference [4] - 21:10,
 37:17, 46:3, 195:3
referenced
 [1] - 119:14
referred [1] - 53:6
reflect [2] - 120:16,
 222:6
reflected [3] - 34:15,
 34:17, 77:10
reflective [1] - 66:11
reflects [1] - 77:8
regard [19] - 32:1,
 32:17, 51:16, 51:17,
 52:11, 52:17, 116:7,
 117:6, 177:6, 196:9,
 197:10, 214:13,
 215:10, 215:14,
 260:5, 261:10,
 264:16, 272:16,
 273:18
regarding [2] - 53:5,
 206:13
regroup [1] - 155:13
regular [2] - 91:7,
 187:4
reheard [1] - 85:8
reiterate [2] - 22:4,
 164:9
relate [1] - 157:4
related [3] - 58:16,
 220:9, 261:18
relationship
 [3] - 39:16, 71:14,
 176:9
relationships
 [1] - 237:4
relatively [3] - 32:11,
 116:13, 178:2
relevance [1] - 78:18
relevant [4] - 161:3,
 235:2, 242:13,
 252:6
reliance [2] - 225:13,
 238:2
relief [48] - 13:3,
 15:12, 32:13, 37:8,
 38:12, 38:15, 39:4,
 43:3, 43:10, 44:1,
 44:8, 45:8, 46:18,
 47:11, 49:7, 53:11,
 58:16, 60:11, 70:2,
 70:9, 76:2, 82:11,

117:1, 117:2, 123:4,
 145:12, 153:14,
 178:7, 179:2, 183:5,
 183:18, 185:11,
 195:18, 197:5,
 197:6, 197:10,
 203:2, 206:11,
 214:4, 215:6, 216:6,
 266:11, 268:18,
 270:8, 273:13,
 273:14, 274:2
reloading ^[1] - 239:14
relocated ^[1] - 75:1
reluctant ^[1] - 154:7
rely ^[3] - 36:17, 84:11,
 221:7
remain ^[2] - 83:17,
 235:14
remainder
^[1] - 188:18
remaining
^[1] - 152:11
remains ^[1] - 12:12
remember ^[3] - 59:16,
 86:1, 251:11
remove ^[3] - 8:2,
 40:6, 202:18
removed ^[7] - 10:18,
 13:1, 35:6, 132:3,
 134:13, 169:14,
 254:17
rendering ^[1] - 189:11
renderings ^[1] - 189:3
renovate ^[1] - 7:17
renovated ^[1] - 202:2
renovation
^[3] - 211:5, 212:16,
 213:9
Renovations
^[1] - 267:10
renovations
^[2] - 201:17, 210:16
rental ^[6] - 79:4, 79:7,
 79:10, 81:11, 145:8,
 145:16
rentals ^[1] - 81:9
rented ^[1] - 187:17
repairs ^[1] - 202:18
replanning
^[1] - 206:18
replica ^[1] - 14:5
REPORTER
^[1] - 277:14
Reporter ^[2] - 277:3,

277:10

REPORTERS

[1] - 1:15

reports [1] - 13:10

represent [6] - 39:13,
72:3, 217:14, 220:3,
236:14, 268:1

representative

[2] - 54:14, 94:16

represented

[4] - 70:18, 261:3,
262:1, 272:10

representing

[1] - 93:14

represents [1] - 9:16

REPRODUCTION

[1] - 277:13

reproduction

[1] - 14:11

request [18] - 12:3,

13:3, 29:7, 35:11,
43:4, 43:6, 44:5,
45:3, 46:1, 83:15,
91:8, 91:12, 91:13,
103:16, 113:5,
206:17, 268:18,
270:4

requested [10] - 53:5,

105:7, 117:11,
117:14, 166:10,
171:13, 179:14,
215:17, 270:8,
274:7

requesting

[4] - 35:16, 44:1,
123:3, 183:5

requests [2] - 44:3,

119:13

require [8] - 16:4,

65:7, 73:14, 99:13,
177:11, 183:11,
235:15, 254:10

required [14] - 36:12,

37:8, 37:18, 38:4,
40:3, 51:18, 83:17,
109:14, 128:3,
138:14, 138:15,
196:15, 215:5,
270:15

requirement

[11] - 13:7, 132:5,
137:1, 149:8, 153:1,
153:3, 167:13,
167:14, 168:11,

174:14, 243:3

requirements

[25] - 3:14, 31:16,
36:15, 38:16, 39:1,
43:5, 44:16, 45:14,
45:16, 46:10, 52:1,
68:2, 75:6, 82:6,
167:8, 167:11,
187:6, 203:3,
227:13, 238:4,
260:8, 263:16,
264:4, 264:7,
264:10

requires [6] - 36:14,

57:12, 116:18,
188:2, 197:5,
273:12

requiring [1] - 234:16

Res [17] - 12:2,

125:16, 126:10,
127:9, 127:12,
128:4, 129:13,
131:8, 134:3, 138:9,
140:5, 140:11,
143:3, 143:7,
172:17, 173:1,
173:5

reschedule

[1] - 119:15

research [1] - 201:12

reservations

[1] - 78:6

Residence [1] - 7:6

residence

[3] - 114:12, 187:16,
212:5

resident [1] - 18:16

residential [19] - 13:2,

17:11, 126:13,
126:18, 130:6,
133:13, 138:7,
142:9, 149:3,
149:15, 150:7,
150:17, 151:3,
151:18, 159:3,
160:10, 167:7,
167:9, 174:10

residents [3] - 187:3,

225:11, 258:1

resides [6] - 103:14,

104:1, 212:18,
213:14, 213:16,
214:2

resolution [1] - 156:8

respect [2] - 43:11,
 70:5
RESPECT
 [1] - 277:14
respected
 [1] - 250:12
respectful [2] - 193:4,
 194:4
respectfully
 [1] - 119:12
respond [1] - 255:4
response [3] - 35:12,
 57:6, 73:17
Response
 [16] - 19:12, 22:8,
 28:15, 103:8,
 113:11, 113:16,
 119:9, 171:10,
 191:7, 194:9,
 209:13, 210:1,
 243:17, 256:14,
 271:18, 272:5
responsible [1] - 72:9
rest [1] - 86:2
restaurant [5] - 219:8,
 237:11, 238:14,
 242:4, 244:14
restocking
 [1] - 239:12
restored [1] - 74:18
restrooms [1] - 264:3
result [5] - 7:15, 9:11,
 57:7, 132:2, 178:12
resulting [1] - 52:4
results [2] - 57:10,
 136:5
retail [17] - 128:3,
 129:3, 129:18,
 130:2, 130:3, 130:5,
 130:13, 132:4,
 132:9, 132:13,
 132:14, 138:14,
 138:15, 138:18,
 141:14, 149:8,
 242:4
retained [1] - 222:2
return [4] - 47:16,
 50:11, 91:16,
 235:15
returned [1] - 82:8
review [8] - 21:13,
 34:4, 85:10, 86:11,
 89:15, 121:7,
 137:11, 159:17

reviewed ^[7] - 23:3,
29:6, 105:11, 115:8,
133:15, 159:5,
228:7

reviewing ^[4] - 7:16,
57:4, 220:8, 271:3

revised ^[1] - 198:8

revitalized ^[1] - 73:1

rezone ^[1] - 168:17

rezoned ^[1] - 173:8

rezoning ^[2] - 159:1,
160:14

RICHARD

^[14] - 107:9, 107:13,
108:3, 108:16,
109:13, 111:2,
111:6, 111:10,
111:13, 111:16,
112:18, 113:2,
113:5, 118:5

Richard ^[14] - 107:13,
117:17, 124:14,
125:1, 125:11,
129:18, 131:15,
142:5, 142:10,
147:14, 148:14,
149:7, 149:14,
149:17

ridge ^[9] - 111:12,
111:13, 111:15,
112:1, 112:3, 112:5,
112:9, 188:11,
188:12

right-hand

^[2] - 250:5, 250:10

risk ^[3] - 23:17, 169:1,
169:2

road ^[2] - 41:12,
196:1

Robert ^[2] - 15:4,
28:18

ROBERTS

^[1] - 151:16

Roberts ^[4] - 151:16,
154:11, 154:12,
159:4

Roberts' ^[1] - 163:1

rolling ^[1] - 232:7

roof ^[6] - 9:18, 18:13,
35:2, 35:6, 193:1,
268:8

roofing ^[4] - 34:1,
34:2, 34:11, 34:18

roofs ^[1] - 20:10

rooftop ^[1] - 160:16
room ^[7] - 10:13,
 10:14, 19:4, 64:3,
 98:12, 190:2, 269:8
rooms ^[2] - 269:7,
 271:9
root ^[1] - 23:17
roots ^[3] - 23:17,
 27:1, 27:11
ROSE ^[3] - 181:18,
 182:6, 190:18
Rose ^[2] - 181:18,
 194:16
rounding ^[1] - 211:2
row ^[1] - 185:7
run ^[4] - 89:2, 91:7,
 98:1, 235:14
running ^[3] - 188:2,
 241:2, 241:11
runs ^[2] - 84:12,
 249:11

S

S-I-G-W-O-R-T-H
^[1] - 218:11
safe ^[2] - 202:6,
 257:11
safer ^[2] - 203:4,
 208:10
safety ^[6] - 52:13,
 196:18, 215:13,
 238:4, 260:11,
 265:15
Saint ^[2] - 56:2, 77:18
sale ^[3] - 145:17,
 145:18, 262:18
salute ^[1] - 157:1
SAME ^[1] - 277:13
sanction ^[1] - 69:7
sanctioned
^[1] - 74:10
SARAH ^[3] - 147:11,
 148:4, 148:7
Sarah ^[1] - 147:11
sat ^[1] - 101:8
satisfactory
^[1] - 170:4
satisfied ^[2] - 161:12,
 238:1
satisfy ^[3] - 13:6,
 35:16, 89:17
satisfying
^[1] - 229:16

Saturdays

[1] - 232:15

saw [6] - 132:7,
173:17, 183:6,
221:13, 244:4,
248:18

scale [2] - 8:7, 234:7

scaled [1] - 250:18

scenarios [1] - 237:7

scheduled

[1] - 119:14

schedules [1] - 85:14

scheme [5] - 156:2,
160:2, 161:13,
249:7, 261:4

school [1] - 268:2

SCOTT [1] - 145:18

Scott [9] - 123:1,
130:11, 134:12,
137:6, 146:1, 158:9,
158:11, 159:11,
160:3

Scott's [2] - 131:9,
135:16

scratch [1] - 150:4

screen [1] - 193:17

screened [1] - 84:14

screening [1] - 161:1

seafood [1] - 223:9

seam [1] - 35:5

SEAN [32] - 80:10,
85:17, 88:2, 112:14,
120:2, 120:13,
122:11, 122:14,
124:1, 124:7, 125:8,
125:13, 126:2,
126:9, 129:10,
132:14, 133:3,
133:8, 135:1, 135:4,
135:7, 135:10,
136:15, 142:2,
142:13, 142:16,
146:12, 154:11,
155:1, 164:8,
165:13, 172:7

Sean [10] - 1:11, 80:6,
110:7, 122:16,
140:18, 141:7,
148:17, 149:1,
158:10

seated [3] - 6:4, 6:11,
54:12

seating [11] - 224:7,
238:11, 238:12,

252:5, 252:7, 252:9,
 254:1, 254:6,
 254:15, 264:2,
 265:5

seats ^[1] - 224:6

seaweed ^[1] - 257:17

second ^[40] - 12:10,
 12:11, 15:16, 17:12,
 25:12, 28:5, 41:12,
 44:18, 50:2, 63:6,
 64:3, 88:8, 103:13,
 104:3, 104:4, 114:3,
 120:15, 136:13,
 136:15, 150:5,
 172:15, 185:12,
 186:6, 186:7,
 186:12, 187:18,
 188:1, 188:14,
 190:9, 192:11,
 193:11, 196:17,
 202:4, 204:15,
 211:1, 218:13,
 269:5, 269:9, 271:7,
 273:8

Secretary ^[1] - 1:11

section ^[7] - 37:17,
 39:8, 46:16, 47:2,
 129:1, 172:16,
 207:15

Section ^[5] - 11:4,
 45:11, 47:8, 49:14,
 260:7

sections ^[1] - 45:11

see ^[51] - 8:6, 9:8,
 10:12, 19:9, 22:17,
 57:17, 59:9, 65:1,
 67:14, 69:11, 76:1,
 81:4, 82:1, 82:17,
 90:4, 100:4, 100:14,
 102:1, 126:5,
 127:17, 129:9,
 129:12, 132:10,
 132:17, 134:11,
 137:5, 142:3, 147:2,
 152:13, 159:17,
 165:1, 169:11,
 173:18, 189:8,
 189:11, 189:16,
 192:6, 194:2, 220:8,
 224:5, 232:16,
 233:18, 235:2,
 248:16, 254:5,
 254:15, 254:16,
 256:10, 269:2,

269:3, 270:1
seeing [2] - 47:18,
 153:16
seek [3] - 8:1, 40:2,
 130:10
seeking [9] - 56:4,
 57:5, 72:16, 82:1,
 145:12, 185:10,
 206:10, 214:5
seeks [1] - 55:12
seem [3] - 189:5,
 190:7, 204:3
segue [1] - 211:11
segueing [1] - 186:3
self [1] - 187:9
self-explanatory
 [1] - 187:9
Senior [1] - 1:5
sense [7] - 86:17,
 162:16, 162:17,
 176:17, 231:13,
 253:5, 271:5
sensible [1] - 190:14
sensitive [4] - 27:8,
 220:16, 253:14,
 260:18
sent [2] - 15:2, 189:2
sentence [1] - 258:10
sentiment [4] - 14:17,
 72:12, 157:12,
 165:17
sentiments
 [1] - 133:4
separate [2] - 39:8,
 66:1
separately
 [1] - 213:13
September
 [12] - 55:3, 55:4,
 85:17, 87:6, 87:15,
 88:12, 88:13, 89:1,
 89:10, 89:14, 90:4,
 119:16
series [1] - 131:14
serve [2] - 72:15,
 175:2
service [4] - 210:10,
 224:8, 227:12,
 261:9
Service [1] - 94:3
serviceable
 [1] - 268:12
services [1] - 245:12
Services [2] - 40:10,

276:2

sessions ^[1] - 3:12

set ^[5] - 95:14,

102:10, 205:16,

277:4, 277:6

setback ^[53] - 8:14,

8:15, 29:9, 42:11,

42:16, 44:15, 44:16,

123:5, 126:12,

127:4, 128:7,

129:14, 133:18,

134:1, 134:6, 134:9,

137:12, 137:16,

137:18, 138:2,

138:4, 138:7, 138:9,

139:3, 139:5,

140:16, 140:17,

143:13, 148:16,

149:17, 150:15,

151:5, 159:6, 165:8,

167:14, 172:14,

173:16, 174:2,

174:8, 174:11,

175:10, 175:15,

185:11, 186:14,

188:7, 188:8, 188:9,

190:4, 195:1, 203:2,

206:14, 270:12

setbacks ^[13] - 8:13,

8:15, 21:17, 43:17,

45:16, 95:13,

109:14, 126:11,

140:2, 152:17,

152:18, 153:2,

153:5

setting ^[1] - 17:15

settled ^[1] - 58:14

Seven ^[2] - 148:14,

158:6

seven ^[14] - 55:17,

58:9, 62:4, 62:7,

80:4, 87:15, 88:15,

89:5, 89:6, 120:6,

120:17, 190:10,

241:12

seven-foot ^[5] - 58:9,

62:4, 62:7, 80:4,

190:10

several ^[9] - 7:10,

18:5, 110:12,

128:15, 131:18,

167:18, 216:2,

241:17, 249:9

shadows ^[1] - 115:16

shall [8] - 75:1, 75:2,
 75:5, 220:15,
 260:10, 260:17,
 262:8, 262:14
shallow [3] - 138:11,
 138:12, 165:5
shame [2] - 146:8,
 184:2
shape [5] - 32:6,
 32:10, 174:6,
 246:18
share [6] - 10:4,
 27:14, 51:6, 81:5,
 102:5, 133:3
shared [3] - 26:17,
 38:8, 50:6
shed [1] - 110:4
Shed [1] - 197:16
SHEET [1] - 275:18
sheet [2] - 189:16,
 276:6
Sheet [2] - 276:1,
 276:6
shell [6] - 66:14, 67:1,
 67:4, 67:10, 67:13
shifted [1] - 251:10
shine [1] - 234:9
ship [1] - 196:13
short [5] - 51:5,
 102:16, 105:1,
 247:1, 270:2
shorter [3] - 63:10,
 64:10, 64:11
Shorthand
 [2] - 277:3, 277:10
shovel [1] - 269:4
Show [1] - 92:4
show [4] - 13:13,
 139:8, 140:13,
 208:1
showed [3] - 132:17,
 247:7, 248:3
showing [1] - 35:3
shrimp [1] - 224:15
sic [1] - 247:6
sick [1] - 267:16
sickbed [1] - 267:17
side [30] - 13:2, 24:13,
 26:3, 29:9, 30:2,
 40:16, 42:4, 42:6,
 43:11, 85:13, 87:3,
 108:5, 112:7,
 114:12, 115:10,
 125:6, 141:17,

153:6, 176:12,
188:9, 194:17,
195:1, 212:12,
213:3, 213:5, 250:5,
250:10, 250:11,
251:9, 256:6

sides ^[8] - 26:2, 30:3,
30:5, 94:5, 160:11,
167:7, 169:6

sidewalk ^[11] - 251:1,
251:3, 251:12,
251:17, 252:4,
252:5, 252:7, 252:8,
252:9, 265:1, 265:6

sidewalks

^[1] - 260:12

sideways ^[1] - 205:13

siding ^[3] - 14:13,
149:16, 189:1

Sign ^[1] - 276:6

sign ^[15] - 87:17,
88:9, 88:11, 88:14,
88:17, 88:18,
120:11, 120:15,
120:17, 221:9,
222:4, 222:10,
222:11, 222:14,
248:16

sign's ^[1] - 89:2

signage ^[4] - 249:7,
249:9, 250:13,
261:6

signature ^[2] - 212:6,
214:1

SIGNATURE

^[1] - 275:18

signatures

^[2] - 147:8, 148:3

signed ^[4] - 104:1,
115:5, 149:10,
171:13

significance

^[1] - 10:4

significant ^[8] - 10:2,
27:1, 115:16, 145:6,
174:15, 175:4,
222:1

significantly

^[1] - 73:2

sigworth ^[1] - 255:3

Sigworth ^[9] - 218:11,
223:7, 224:11,
226:4, 228:8,
229:11, 230:2,

239:6, 254:4

SIGWORTH

[29] - 218:15, 219:3,
219:8, 219:11,
219:14, 219:18,
224:16, 227:9,
228:1, 231:14,
232:13, 233:6,
233:9, 234:2, 234:5,
239:7, 239:15,
240:5, 241:7,
244:10, 244:13,
245:4, 245:9, 246:4,
246:11, 262:6,
263:4, 263:7,
263:13

Sigworth's [1] - 223:3

similar [7] - 8:7,
145:2, 188:10,
188:14, 201:10,
213:15, 227:15

similarly [1] - 237:10

simply [1] - 18:2

single [6] - 7:5, 40:4,
45:7, 45:9, 78:16,
201:11

single-family

[3] - 7:5, 78:16,
201:11

Sisia [1] - 1:12

sit [2] - 17:14, 148:11

site [15] - 41:15, 45:7,
51:18, 123:7,
123:12, 123:17,
124:2, 130:1,
130:17, 138:17,
140:10, 158:17,
159:11, 160:5,
169:13

sites [1] - 157:1

sits [2] - 16:8, 17:1

sitting [3] - 4:7,
192:18, 271:9

Sitting [12] - 3:4, 5:2,
54:2, 91:2, 93:2,
107:2, 119:2, 122:2,
181:2, 199:2, 217:2,
267:2

situation [4] - 12:12,

57:13, 159:10,
168:9

situations [1] - 65:6

six [6] - 62:4, 62:7,
84:17, 190:10,

241:12, 244:18
size ^[17] - 8:7, 12:7,
 18:12, 39:5, 60:8,
 60:17, 65:17, 65:18,
 72:15, 82:12, 95:16,
 108:14, 108:15,
 108:16, 108:18,
 116:1, 116:15
sized ^[1] - 108:13
sky ^[1] - 136:12
slab ^[1] - 62:10
sliding ^[1] - 186:8
slight ^[1] - 270:11
slightly ^[4] - 61:2,
 153:7, 188:15,
 269:1
sliver ^[1] - 250:10
slope ^[1] - 230:4
slopes ^[1] - 230:6
slower ^[1] - 244:17
small ^[12] - 9:2, 32:12,
 108:11, 116:13,
 149:9, 158:16,
 167:1, 178:2, 190:9,
 190:10, 193:18,
 269:7
smaller ^[5] - 11:5,
 140:7, 153:7, 167:2,
 271:8
SMILES ^[4] - 107:16,
 108:15, 109:2,
 109:11
Smiles ^[2] - 114:13,
 115:8
smiles ^[1] - 107:17
Smith ^[1] - 114:9
smoothie ^[1] - 229:3
snow ^[1] - 269:3
so... ^[1] - 236:7
Society ^[1] - 94:18
solely ^[1] - 75:15
solution ^[2] - 44:5,
 168:10
solve ^[1] - 193:16
someone ^[1] - 241:2
sometime ^[3] - 23:6,
 31:4, 54:17
sometimes
^[3] - 47:15, 59:6,
 237:5
somewhat ^[4] - 11:12,
 69:5, 271:7
somewhere
^[3] - 55:4, 62:17,

240:14
sorry ^[19] - 22:17,
 44:6, 73:5, 95:6,
 97:13, 100:8, 108:3,
 112:1, 123:18,
 139:13, 146:1,
 161:4, 162:9,
 194:12, 201:3,
 218:12, 229:8,
 255:13, 259:6
sort ^[16] - 22:15,
 40:10, 81:10, 83:18,
 99:3, 108:13, 178:3,
 188:5, 202:13,
 241:7, 243:3,
 249:10, 250:6,
 250:8, 260:4, 271:8
sought ^[13] - 10:16,
 15:12, 32:2, 51:17,
 59:8, 116:8, 177:7,
 196:10, 197:10,
 197:15, 214:14,
 272:17, 274:2
sound ^[1] - 153:7
sounds ^[1] - 242:2
sous ^[3] - 224:16,
 224:17, 225:6
south ^[3] - 108:4,
 212:12, 213:5
southeast ^[3] - 211:3,
 212:13, 213:7
space ^[41] - 37:11,
 38:6, 38:12, 40:2,
 40:13, 41:5, 42:2,
 45:7, 45:9, 49:1,
 49:4, 49:7, 58:12,
 59:2, 60:11, 63:18,
 64:6, 65:9, 96:9,
 96:17, 98:7, 98:11,
 99:10, 101:6,
 116:14, 136:17,
 137:1, 137:2,
 143:14, 151:2,
 159:2, 159:7,
 186:18, 188:3,
 196:15, 204:5,
 204:6, 205:15,
 208:15, 265:7,
 273:7
spaces ^[16] - 13:5,
 36:14, 38:17, 39:4,
 43:6, 43:11, 44:2,
 44:8, 45:4, 46:14,
 56:13, 56:16, 142:7,

220:18, 261:2,
268:6

speaking ^[1] - 192:1

special ^[1] - 74:3

Special ^[36] - 12:17,

36:11, 38:5, 45:3,
45:17, 46:8, 46:15,
46:17, 47:5, 48:10,
49:6, 49:13, 51:12,
51:16, 52:2, 53:4,
58:6, 70:14, 73:14,
74:2, 128:13,
128:18, 206:10,
211:7, 222:18,
223:1, 224:1,
235:18, 246:18,
253:2, 260:3, 260:6,
264:7, 264:11,
266:6

specific ^[4] - 51:3,

141:11, 168:2,
173:14

specifically

^[7] - 73:10, 129:1,
134:5, 136:3, 166:9,
174:5, 175:14

specimens ^[1] - 208:1

spell ^[2] - 114:3,

181:15

spelled ^[2] - 222:15,

257:1

spelling ^[1] - 6:16

spend ^[1] - 236:14

spending ^[1] - 207:12

spent ^[2] - 23:6, 235:6

spoken ^[4] - 70:11,

157:2, 161:9, 203:5

spot ^[1] - 41:12

Spring ^[4] - 2:11,

181:6, 181:12,
182:1

square ^[25] - 8:18,

9:9, 9:17, 10:1,
10:10, 10:15, 11:8,
13:13, 13:16, 16:15,
17:5, 17:17, 20:16,
55:14, 55:18, 61:3,
61:11, 82:12, 108:8,
108:12, 113:6,
123:13, 152:5,
257:15, 261:14

Square ^[36] - 72:18,

127:9, 127:14,
139:7, 167:18,

223:8, 225:10,
 225:11, 225:12,
 226:1, 226:7, 226:8,
 227:8, 227:13,
 229:14, 230:9,
 231:16, 232:1,
 232:14, 233:14,
 233:17, 234:18,
 235:7, 240:6, 247:8,
 247:12, 247:14,
 248:12, 254:5,
 254:14, 256:18,
 257:4, 257:6,
 258:17, 261:12,
 265:2

SS ^[1] - 277:1

stabilization

^[1] - 161:10

Stabilization

^[4] - 128:16, 158:7,
 179:9, 179:10

staff ^[4] - 33:12, 34:4,

133:16, 240:13

stair ^[16] - 64:6,

183:2, 186:5, 186:9,
 186:11, 186:13,
 189:14, 189:15,
 189:17, 190:3,
 190:5, 190:8,
 190:12, 203:4,
 203:16

stairs ^[9] - 63:13,

63:18, 192:4,
 192:10, 193:10,
 194:18, 196:16,
 204:3, 269:7

stairway ^[2] - 144:6,

208:18

stairwell ^[4] - 200:13,

210:18, 212:11,
 213:5

stairwells ^[1] - 208:16

stand ^[1] - 48:13

standard ^[4] - 10:17,

86:12, 227:1,
 269:10

standards ^[2] - 41:17,

226:10

standing ^[3] - 35:5,

170:5, 170:6

standoffish

^[1] - 20:12

standpoint ^[1] - 100:1

start ^[5] - 151:14,

182:3, 211:4,
 240:14, 247:5
started [6] - 4:10,
 69:11, 85:6, 131:4,
 201:14, 231:17
starting [1] - 150:4
starts [1] - 89:1
state [1] - 263:15
statement [2] - 3:9,
 33:8
statement(s)
 [1] - 276:16
Station [1] - 94:3
statutes [1] - 91:10
stay [2] - 109:15,
 185:3
staying [3] - 233:12,
 236:13, 246:17
stays [1] - 189:17
stem [1] - 57:1
stenographer
 [5] - 4:3, 107:12,
 147:10, 151:15,
 199:9
step [2] - 128:5,
 268:14
Stephanie
 [3] - 114:13, 114:18,
 115:7
STEPHEN
 [10] - 199:11,
 199:12, 200:1,
 200:5, 200:8,
 203:13, 204:9,
 204:12, 206:3,
 207:10
Stephen [7] - 199:11,
 201:13, 210:14,
 210:16, 211:9,
 212:9, 213:3
steps [1] - 50:11
STERN [3] - 148:10,
 148:13, 172:2
Stern [3] - 148:13,
 164:16, 171:16
Steve [1] - 114:8
still [7] - 37:5, 65:14,
 66:2, 76:16, 102:7,
 137:2, 137:3
stilts [3] - 204:16,
 204:17, 205:8
stock [3] - 64:16,
 77:7, 78:3
stood [1] - 7:15

stoops ^[1] - 125:9
stop ^[3] - 225:14,
 255:9, 274:7
stops ^[1] - 236:6
storage ^[5] - 65:8,
 204:5, 204:6, 243:8,
 269:4
store ^[6] - 98:17,
 234:3, 234:17,
 239:18, 241:12,
 256:6
stored ^[1] - 243:10
storefront ^[5] - 220:9,
 221:6, 221:16,
 250:6, 250:14
story ^[3] - 16:14,
 269:6, 269:9
straight ^[1] - 205:13
strange ^[1] - 129:14
Strauss ^[6] - 15:5,
 26:15, 27:14, 28:18,
 31:4
Street ^[69] - 2:3, 2:4,
 2:6, 2:7, 2:8, 2:9,
 2:11, 2:12, 5:7, 7:7,
 16:12, 17:15, 18:18,
 20:6, 24:13, 24:15,
 29:1, 29:4, 31:2,
 54:6, 55:12, 59:11,
 91:2, 91:12, 93:6,
 95:7, 95:9, 103:15,
 104:2, 107:6,
 107:17, 108:5,
 114:4, 114:7,
 114:10, 114:14,
 115:10, 119:6,
 142:10, 181:6,
 181:12, 181:14,
 182:1, 191:13,
 199:6, 201:2, 201:7,
 201:9, 207:16,
 210:9, 210:12,
 210:13, 212:5,
 212:7, 212:9,
 212:18, 213:1,
 213:2, 213:14,
 213:17, 214:2,
 239:4, 243:9,
 243:12, 243:13,
 250:11, 251:2,
 255:18, 256:5
street ^[20] - 7:8,
 11:11, 17:16, 19:1,
 20:11, 21:2, 24:10,

24:14, 26:3, 36:17,
44:17, 79:18, 95:11,
101:17, 125:7,
136:8, 160:11,
193:1, 212:8, 265:7

streets [2] - 260:12,
260:14

streetscape

[7] - 14:17, 18:17,
20:1, 124:17,
125:10, 133:13,
173:13

streetscapes

[2] - 172:11, 172:13

stretch [2] - 134:7,
173:6

stretching [1] - 188:6

strikes [1] - 74:7

strokes [1] - 187:6

strong [3] - 14:14,
129:5, 149:15

strongly [2] - 115:11,
148:15

struck [1] - 24:11

structural [1] - 8:1

structure [42] - 7:12,
8:6, 8:8, 8:10, 8:12,
9:1, 9:2, 12:1, 14:4,
14:9, 14:10, 23:17,
35:5, 40:17, 42:8,
43:12, 52:14, 63:9,
66:11, 71:13, 72:1,
73:15, 74:8, 74:18,
75:4, 77:17, 98:8,
98:16, 116:13,
116:14, 116:17,
202:15, 203:1,
208:8, 215:1, 215:4,
215:15, 269:1,
273:3, 273:11,
274:4

structures [9] - 12:2,
18:6, 42:7, 65:2,
70:12, 74:3, 74:9,
77:6, 210:13

struggle [2] - 71:7,
234:6

student [1] - 225:10

students [2] - 228:3,
257:18

Studio [2] - 181:14,
197:17

Studios [1] - 6:13

study [6] - 134:6,

144:10, 172:10,
 173:9, 175:10,
 175:13

stuff [4] - 21:17,
 80:11, 241:10,
 253:1

stupid [1] - 204:3

style [7] - 10:9, 19:18,
 35:5, 56:8, 72:15,
 101:1, 243:1

subject [6] - 3:13,
 45:16, 53:5, 87:15,
 120:6, 120:7

submit [1] - 34:3

submitted [4] - 84:3,
 117:16, 194:15,
 211:14

subscribe
 [1] - 276:15

subsequently
 [1] - 183:2

substantial
 [16] - 32:5, 32:14,
 52:6, 114:17,
 116:11, 117:3,
 167:1, 177:10,
 178:8, 196:13,
 197:7, 214:17,
 215:7, 264:15,
 273:2, 273:15

substantially
 [7] - 32:15, 117:4,
 143:11, 178:9,
 197:8, 215:8,
 273:16

subway [2] - 236:6,
 236:7

successful
 [1] - 253:15

successor [1] - 32:9

suffered [1] - 66:9

sufficient [1] - 49:15

suggest [8] - 10:18,
 12:18, 159:16,
 183:15, 184:4,
 226:9, 237:11,
 264:17

suggested [1] - 34:10

suggesting
 [2] - 71:11, 77:16

suggestion
 [2] - 64:16, 82:16

suggestions
 [1] - 160:7

suggests ^[1] - 81:10

suitable ^[1] - 262:15

Sullivan ^[24] - 1:8,

3:5, 5:3, 36:8,

53:12, 54:3, 90:7,

91:4, 92:7, 93:3,

105:17, 107:3,

118:12, 119:3,

122:3, 180:5, 181:3,

198:15, 199:3,

216:8, 217:3,

266:12, 267:3,

275:4

SULLIVAN

^[38] - 34:18, 35:8,

43:4, 43:13, 43:16,

44:13, 50:15, 51:4,

66:13, 67:3, 68:1,

68:11, 68:14, 68:17,

69:3, 98:10, 98:17,

99:18, 101:7,

101:18, 102:3,

111:17, 112:8,

112:11, 145:16,

170:1, 170:8,

170:17, 218:4,

220:7, 221:17,

222:3, 222:6, 230:8,

231:9, 256:10,

259:15, 271:2

summary ^[1] - 189:15

summer ^[2] - 201:15

summon ^[1] - 232:8

support ^[33] - 26:15,

29:7, 84:8, 103:10,

103:16, 114:5,

114:11, 115:11,

117:7, 117:8,

147:15, 148:15,

153:12, 171:13,

185:7, 191:17,

194:14, 195:2,

203:6, 203:7, 203:9,

206:17, 212:14,

213:7, 214:4,

215:12, 232:3,

236:18, 255:7,

257:2, 258:10,

272:10, 272:11

supported ^[4] - 131:2,

159:1, 164:16,

209:2

supporting ^[2] - 94:6,

209:3

supportive

[2] - 177:16, 257:13

supports [1] - 30:7

supposed [3] - 67:5,
76:15, 168:2

surprised

[2] - 209:10, 217:14

surrounding

[2] - 12:2, 78:13

survey [2] - 139:9,
139:18

surveyed [1] - 229:12

Susan [4] - 93:14,
94:11, 103:14

sushi [2] - 223:10,
224:10

suspect [3] - 6:7,
223:8, 255:6

sustainable

[2] - 228:5

SUV [1] - 225:2

Swedish [1] - 210:9

switch [1] - 163:8

switches [1] - 171:2

T

T.G.A.S [1] - 36:2

Tabernacle

[3] - 210:8, 210:15,
211:5

table [1] - 170:10

tables [1] - 255:11

takeout [1] - 245:7

talks [1] - 172:10

taller [2] - 187:13,
269:3

tandem [8] - 12:14,
37:5, 37:6, 38:7,
38:11, 39:14, 44:5,
44:9

tanks [1] - 169:13

tape [1] - 4:6

taste [2] - 226:13,
247:9

tasted [1] - 257:14

team [1] - 176:16

technical [4] - 49:10,
184:13, 189:13,
189:14

technically

[3] - 159:7, 187:1,
187:10

technology

[1] - 66:12

Ted [1] - 24:8

TEDESCO

[42] - 29:14, 30:3,
30:6, 30:9, 30:16,
31:10, 44:4, 44:7,
44:11, 60:13, 61:17,
62:3, 62:9, 62:15,
63:1, 63:5, 63:8,
63:17, 64:4, 64:10,
73:4, 73:7, 79:3,
79:11, 79:16, 80:3,
80:12, 81:4, 99:4,
99:9, 99:13, 100:5,
100:8, 100:13,
101:16, 102:2,
102:9, 102:13,
102:16, 176:4,
222:14, 229:1

Tedesco [24] - 1:10,

3:6, 5:4, 36:9,
53:13, 54:4, 90:8,
91:5, 92:8, 93:4,
105:18, 107:4,
118:13, 119:4,
122:4, 180:6, 181:4,
198:16, 199:4,
216:9, 217:4,
266:13, 267:4,
275:5

ten [23] - 41:10,

41:18, 42:1, 42:18,
43:2, 62:14, 138:1,
138:6, 139:2,
140:16, 142:6,
143:13, 150:15,
153:3, 165:7,
172:13, 172:14,
174:8, 210:12,
231:17, 232:11,
268:14

ten-foot [9] - 138:1,

139:2, 142:6,
143:13, 150:15,
153:3, 165:7,
172:14, 174:8

ten-inch [1] - 268:14

ten-yard [1] - 172:13

tenant [3] - 13:12,

221:7, 250:13

tenants [2] - 84:14,

163:6

term [2] - 6:8, 229:5

terms [14] - 8:13,

38:18, 39:6, 40:16,
56:11, 65:3, 85:4,
100:9, 110:2,
117:11, 137:8,
230:4, 253:12,
274:3

terrible ^[1] - 101:13

terrifying ^[1] - 202:13

test ^[1] - 7:15

testimony ^[19] - 22:7,

22:11, 29:11,
102:14, 103:5,
104:15, 113:13,
147:4, 157:11,
172:5, 175:18,
191:9, 194:11,
195:9, 209:16,
214:6, 244:1, 272:2,
272:13

text ^[1] - 213:11

texture ^[2] - 20:9,

21:7

THE ^[10] - 1:1, 1:16,

126:7, 139:11,
147:7, 148:2,
277:13, 277:13,
277:14, 277:14

then... ^[1] - 93:18

theory ^[1] - 12:18

thereby ^[1] - 149:7

therefor ^[1] - 276:6

therefore ^[10] - 35:17,

66:1, 114:18,
116:18, 117:12,
132:18, 227:11,
261:14, 265:2,
273:12

thereof ^[1] - 262:11

they've ^[4] - 88:2,

162:3, 178:17,
201:16

thickly ^[1] - 58:13

thinking ^[4] - 19:2,

24:17, 85:5, 236:5

thinks ^[2] - 225:8,

230:2

third ^[16] - 11:14,

11:15, 11:17, 11:18,
12:11, 17:10, 41:16,
63:9, 96:13, 103:17,
104:4, 144:8,
150:16, 184:16,
186:17, 188:2

thirds ^[2] - 138:3,

174:1

THIS ^[1] - 277:13

Thomas ^[2] - 31:1,
114:2

thorough ^[2] - 7:2,
137:10

threaten ^[1] - 260:11

three ^[46] - 7:11, 9:10,
12:15, 13:11, 13:12,
35:15, 36:13, 40:4,
56:12, 56:15, 65:1,
65:15, 67:1, 67:12,
67:13, 71:17, 89:17,
100:15, 103:12,
108:18, 115:18,
140:8, 143:6, 144:3,
144:12, 144:14,
145:3, 145:8,
150:11, 158:17,
160:11, 163:9,
165:9, 174:14,
174:17, 174:18,
175:1, 175:3, 202:9,
202:11, 208:11,
221:5, 223:1,
234:11, 237:8

three-bedroom

^[6] - 144:3, 145:8,
150:11, 165:9,
174:14, 175:3

three-dimensional

^[1] - 100:15

three-family

^[2] - 65:1, 67:12

three-month-old

^[3] - 202:9, 202:11,
208:11

three-unit ^[2] - 67:1,
143:6

three-year-old

^[1] - 221:5

throughout

^[2] - 127:8, 133:14

throw ^[1] - 67:11

THURSDAY ^[1] - 1:4

ticked ^[1] - 35:15

tie ^[3] - 196:1, 211:13,
274:9

tied ^[3] - 141:8,

153:15, 160:14

tightly ^[1] - 69:10

tile ^[2] - 249:10,

249:11

timer ^[1] - 234:8

Timothy ^[1] - 194:13
tiny ^[4] - 144:9, 192:4,
 192:5, 250:9
TO ^[1] - 277:13
today ^[3] - 71:9,
 132:10, 198:4
today's ^[1] - 198:3
together ^[2] - 136:16,
 137:4
tonight ^[20] - 4:12,
 6:1, 31:15, 50:1,
 50:10, 89:6, 93:15,
 97:6, 122:18,
 131:16, 133:2,
 140:18, 153:15,
 153:16, 157:2,
 158:18, 161:3,
 178:6, 211:12,
 267:17
tonight's ^[1] - 26:7
took ^[8] - 50:9,
 100:11, 131:3,
 131:12, 131:18,
 205:12, 212:3,
 259:11
toomey ^[1] - 194:13
top ^[1] - 109:12
torn ^[2] - 81:4, 81:16
total ^[1] - 152:5
totally ^[2] - 109:14,
 110:5
touch ^[3] - 110:13,
 115:2, 165:4
touched ^[3] - 227:6,
 248:15, 249:2
tough ^[1] - 157:1
toward ^[2] - 131:4,
 211:1
towards ^[5] - 127:7,
 173:7, 174:9,
 175:16, 205:15
tower ^[1] - 160:10
townhome
^[2] - 144:4, 187:3
townhomes
^[1] - 187:3
townhouse
^[4] - 141:12, 172:12,
 196:14, 197:4
townhouses
^[3] - 125:9, 149:12,
 150:12
trade ^[5] - 225:13,
 238:2, 261:17,

261:18, 262:5

traditionally

[1] - 79:17

traffic [8] - 52:3,

115:15, 232:4,

242:14, 253:8,

253:10, 260:10,

264:13

TRANSCRIPT

[1] - 277:13

transcript [5] - 4:5,

276:1, 276:5,

276:14, 276:15

transfer [1] - 224:2

transit [2] - 225:14,

255:9

transition [3] - 20:18,

150:10, 151:3

transitional

[11] - 123:4, 126:11,

126:15, 127:4,

134:1, 137:11,

167:8, 167:16,

173:15, 174:2,

174:11

translation [1] - 260:1

transmit [1] - 3:12

transparent

[1] - 165:2

trash [7] - 230:15,

243:8, 243:10,

243:14, 257:8,

263:5, 263:9

traveling [1] - 124:8

Traverse [2] - 267:13,

274:15

treated [1] - 39:18

tree [12] - 23:13,

23:18, 24:6, 25:6,

26:12, 26:18, 27:4,

27:8, 27:16

tried [4] - 109:16,

144:1, 194:4,

269:12

triggered [2] - 80:8,

80:15

triggering [2] - 83:18,

84:1

trouble [1] - 26:8

troubled [2] - 49:12,

66:2

Troy [1] - 210:6

trucks [4] - 241:6,

241:8, 256:3

true ^[6] - 60:16, 64:7,
77:1, 95:13, 256:5,
277:4

truly ^[1] - 269:2

trust ^[1] - 21:12

Trust ^[1] - 82:10

try ^[7] - 97:18, 144:2,
157:6, 163:15,
201:6, 228:4,
240:18

trying ^[15] - 21:6,
21:9, 26:5, 66:10,
101:4, 140:13,
200:13, 201:17,
202:9, 202:11,
205:2, 205:4,
207:12, 232:16,
240:9

turn ^[9] - 4:9, 5:17,
16:4, 36:10, 91:6,
142:5, 183:10,
193:5, 235:16

turning ^[3] - 83:6,
264:6, 268:7

turquoise ^[3] - 249:8,
249:10

turret ^[2] - 96:10,
96:13

tweaks ^[1] - 101:8

twelve ^[1] - 234:7

two ^[59] - 4:3, 4:12,
11:8, 11:9, 12:16,
13:4, 23:2, 23:8,
24:2, 31:14, 36:13,
36:14, 38:17, 39:4,
39:16, 43:6, 44:2,
74:1, 85:18, 108:13,
109:2, 123:13,
124:3, 124:11,
124:16, 124:18,
128:18, 133:17,
136:16, 138:3,
140:8, 144:16,
145:2, 148:16,
160:11, 163:8,
167:7, 174:1,
185:10, 186:4,
187:7, 187:16,
188:13, 202:2,
206:10, 215:1,
232:5, 232:16,
232:18, 234:6,
237:9, 240:1, 241:3,
241:13, 245:1,

260:4, 268:2,
270:13, 270:14

two-dimensionally

[1] - 13:4

two-family

[4] - 36:13, 187:16,
202:2, 215:1

type [11] - 127:16,

130:3, 173:4, 223:5,
224:1, 224:4, 226:5,
229:13, 241:16,
243:1

types [3] - 4:4,

127:16, 260:5

typical [2] - 268:5,

271:8

typically [6] - 126:17,

183:10, 183:11,
241:6, 244:13,
263:4

U

ultimately [2] - 161:7,

254:9

unanimous

[4] - 117:7, 117:8,
215:11, 258:16

unanimously

[1] - 155:12

unchanged

[4] - 12:12, 40:5,
229:18, 230:7

under [11] - 9:5, 9:17,

36:12, 76:4, 78:8,
169:15, 183:3,
195:6, 204:5,
208:12, 220:12

UNDER [1] - 277:14

underground

[1] - 142:1

undermines

[1] - 168:4

underscore

[1] - 227:6

undersigned

[1] - 277:3

understood

[7] - 33:16, 40:8,
87:12, 102:11,
133:11, 163:14,
235:10

underway [1] - 248:3

unencumbered

[1] - 255:11

unfortunate

[3] - 138:1, 176:9,
249:6

unfortunately

[1] - 57:1

UNIDENTIFIED

[4] - 126:7, 139:11,
147:7, 148:2

unimportant

[1] - 250:15

unique [5] - 173:3,

224:9, 242:16,
242:18, 243:2

uniquely [2] - 174:12,

178:3

unit [69] - 39:16, 49:2,

56:5, 56:8, 56:10,
56:11, 57:5, 57:8,
57:11, 57:18, 59:3,
59:6, 60:2, 60:3,
60:4, 60:8, 60:17,
61:4, 61:10, 61:12,
61:15, 61:18, 65:12,
65:18, 66:2, 66:5,
67:1, 68:11, 69:14,
69:16, 71:16, 72:2,
76:1, 76:2, 78:17,
79:12, 80:8, 80:14,
80:16, 81:10, 81:11,
82:5, 82:7, 82:11,
82:12, 82:13, 83:1,
83:10, 83:16, 83:18,
84:7, 84:12, 86:11,
103:17, 109:15,
114:4, 125:5, 132:8,
132:12, 134:10,
141:12, 143:6,
168:12, 196:17

units [27] - 7:12, 11:9,

12:15, 12:16, 13:11,
13:12, 36:13, 40:4,
56:2, 59:7, 64:14,
64:15, 78:2, 79:5,
82:14, 83:3, 86:13,
130:6, 144:12,
145:8, 145:16,
151:7, 159:3, 165:9,
174:16, 175:2,
175:3

universally

[1] - 178:15

University [2] - 18:18,

127:11

UNLESS ^[1] - 277:14
unless ^[2] - 91:11,
 161:11
unlike ^[3] - 26:7, 96:7,
 257:14
unlikely ^[1] - 265:12
unloading
^[1] - 241:11
unobstructed
^[1] - 136:11
unorthodox
^[2] - 127:12, 174:13
unsatisfied
^[1] - 169:2
unusual ^[1] - 257:16
unusually ^[1] - 32:11
up ^[50] - 20:14, 22:6,
 22:10, 24:14, 26:5,
 50:2, 50:18, 51:4,
 61:4, 61:10, 63:18,
 88:11, 88:18, 89:2,
 103:5, 113:13,
 123:10, 124:18,
 126:17, 128:5,
 140:3, 147:4,
 152:15, 156:3,
 166:11, 168:9,
 174:15, 186:12,
 190:3, 190:9, 191:9,
 201:18, 204:18,
 209:15, 223:12,
 243:11, 243:12,
 243:14, 243:18,
 245:7, 245:12,
 247:7, 248:3,
 249:14, 249:18,
 252:8, 272:2
update ^[1] - 273:3
upgraded ^[1] - 215:2
upgrades ^[1] - 201:13
urban ^[2] - 17:15,
 176:6
usable ^[6] - 58:17,
 77:6, 96:9, 96:14,
 98:3, 269:8
uses ^[9] - 14:12, 52:9,
 69:5, 123:16,
 127:16, 220:18,
 242:4, 261:2, 265:9
utensils ^[2] - 262:10,
 262:17
utilize ^[2] - 72:4,
 262:9
utilized ^[1] - 38:11

V

V-I-L-L-N-A-U-E-V-A

[1] - 54:13

vacant [1] - 169:11

vacation [2] - 91:15,
184:8

Valucci's [1] - 192:6

value [3] - 58:1, 67:7,
67:9

vans [1] - 241:6

Variance [54] - 31:15,

32:1, 35:16, 35:18,

36:7, 53:7, 57:13,

91:9, 91:10, 91:14,

91:18, 96:7, 99:14,

105:7, 105:12,

105:16, 110:10,

114:11, 115:1,

115:12, 116:8,

117:13, 118:7,

118:10, 123:4,

125:14, 130:10,

130:15, 134:2,

137:15, 143:10,

147:16, 148:15,

150:1, 150:6,

150:11, 151:4,

156:13, 161:11,

164:2, 164:17,

168:1, 168:15,

171:13, 179:13,

180:4, 198:14,

206:17, 208:4,

214:13, 215:17,

272:16, 274:6,

275:2

variances [1] - 108:5

Variances

[5] - 133:17, 166:10,

177:6, 196:10,

197:14

variation [1] - 224:10

variety [1] - 271:5

various [5] - 115:5,

149:1, 178:13,

228:9, 252:16

vast [1] - 9:9

vehicle [2] - 13:7,

13:12

vehicles [1] - 255:15

vendors [3] - 239:16,

240:9, 241:17

venerable ^[1] - 24:5
versus ^[1] - 260:6
vertical ^[1] - 202:7
Vice ^[1] - 1:8
Victorian ^[2] - 101:1,
 201:1
Victualler ^[1] - 231:2
vide ^[3] - 224:16,
 224:17, 225:6
video ^[1] - 3:11
view ^[13] - 15:17,
 38:3, 46:6, 50:7,
 50:10, 154:10,
 163:2, 183:17,
 192:7, 202:5, 209:1,
 228:12, 236:2
views ^[3] - 17:16,
 68:6, 154:3
Villnaueva
^[3] - 54:13, 54:14,
 54:16
VILLNAUEVA
^[15] - 55:3, 55:6,
 56:14, 61:7, 62:1,
 62:6, 62:12, 62:16,
 63:3, 63:7, 63:12,
 64:1, 79:8, 80:1,
 80:17
violate ^[1] - 75:5
violation ^[2] - 159:6,
 159:7
Virginia ^[1] - 212:17
visiting ^[1] - 268:15
visitors ^[2] - 225:11,
 258:1
visual ^[2] - 220:16,
 260:18
vocabulary
^[1] - 114:15
voice ^[1] - 267:18
voices ^[1] - 255:5
volume ^[2] - 75:2,
 276:5
vote ^[20] - 31:14,
 37:14, 47:11, 48:9,
 50:1, 50:9, 51:12,
 51:13, 104:16,
 116:3, 162:3, 176:3,
 176:4, 177:4,
 195:10, 214:8,
 218:2, 258:17,
 259:17, 272:14
voted ^[5] - 31:15,
 48:6, 96:7, 155:12,

161:11

votes ^[1] - 260:5

W

wait ^[1] - 124:14

waive ^[2] - 43:5, 68:1

waiver ^[3] - 45:17,

87:17, 120:11

walk ^[10] - 95:13,

139:4, 205:6,

225:13, 238:2,

248:16, 252:18,

261:17, 262:4,

265:7

walk-in ^[5] - 225:13,

238:2, 252:18,

261:17, 262:4

wall ^[4] - 136:7,

188:8, 188:9,

188:16

wandered

^[1] - 218:13

warrant ^[1] - 69:16

Washington

^[16] - 2:12, 155:8,

199:6, 199:13,

201:2, 201:7, 201:9,

207:16, 210:12,

210:13, 212:5,

212:7, 212:9,

212:18, 213:1,

213:2

waste ^[1] - 262:15

water ^[2] - 170:11,

202:16

Watson ^[1] - 101:11

weeds ^[1] - 161:5

week ^[1] - 257:6

weeks ^[5] - 84:17,

85:7, 86:6, 86:13,

232:18

weird ^[1] - 128:5

welcome ^[3] - 147:2,

236:17, 259:1

welfare ^[2] - 52:14,

265:16

well-positioned

^[1] - 77:15

well-presented

^[1] - 29:5

wells ^[1] - 58:12

west ^[5] - 7:8, 114:12,

115:9, 127:1, 128:6

WHEREOF ^[1] - 277:6

white ^[3] - 156:5,
160:6, 189:2

whole ^[7] - 98:2,
138:2, 167:8,
167:15, 168:1,
186:11, 186:13

wide ^[6] - 41:10,
41:18, 42:1, 42:2,
61:1, 190:11

width ^[3] - 10:13,
39:6, 61:1

wife ^[4] - 109:7,
200:11, 201:14,
268:1

Williamson

^[4] - 22:13, 22:14,
223:14, 244:3

WILLIAMSON

^[15] - 22:14, 23:2,
25:14, 26:4, 229:6,
246:16, 248:7,
248:10, 251:6,
251:9, 254:18,
255:13, 256:2,
259:4, 259:7

willing ^[1] - 255:7

win/win ^[1] - 84:6

wind ^[1] - 61:4

winders ^[1] - 63:14

window ^[5] - 19:16,
58:12, 186:7,
188:15, 249:9

windows ^[9] - 20:10,
149:16, 150:16,
150:18, 151:5,
188:17, 188:18,
206:14, 207:1

wish ^[7] - 4:2, 28:14,
30:14, 51:3, 108:7,
153:10, 157:3

wishes ^[3] - 151:11,
171:9, 272:7

wishing ^[20] - 5:8,
22:11, 54:7, 93:7,
103:6, 107:7,
113:14, 119:7,
122:7, 147:5, 181:7,
191:10, 194:7,
199:7, 209:17,
217:7, 244:2,
256:13, 267:7,
272:3

withdraw ^[1] - 169:17

withstand [1] - 46:7

withstanding

[3] - 14:6, 58:8,
224:2

WITNESS [1] - 277:6

wonder [4] - 80:3,

80:13, 230:10,
253:11

wondered [1] - 236:2

wondering

[1] - 250:11

wood [1] - 160:6

wooden [2] - 210:18,

212:11

word [2] - 191:18,

218:18

words [2] - 16:12,

110:18

workers [1] - 225:12

works [1] - 120:1

Works [6] - 218:15,

219:9, 219:11,

219:18, 248:17,

254:8

worried [1] - 60:1

worry [1] - 162:14

worth [3] - 17:8,

67:10, 83:13

wow [2] - 24:15, 63:8

write [2] - 132:1,

212:4

writing [4] - 29:7,

103:15, 114:10,

194:14

written [1] - 168:7

wrought [2] - 202:7,

250:8

www.reportersinc.c

om [1] - 1:17

Y

yard [14] - 29:9,

123:4, 123:6, 128:7,

133:17, 137:18,

139:5, 167:14,

172:13, 195:1,

270:12, 270:13,

270:16, 270:17

year [9] - 55:4, 55:5,

91:17, 123:10,

132:11, 135:5,

200:12, 207:12,

221:5

years ^[23] - 7:11,
 12:14, 27:5, 31:3,
 74:1, 96:3, 101:8,
 101:9, 101:10,
 101:13, 107:18,
 109:3, 131:1,
 147:13, 148:16,
 154:5, 177:14,
 178:12, 184:15,
 185:4, 223:1

yesterday ^[1] - 251:5

yoga ^[1] - 99:3

younger ^[1] - 225:11

yourself ^[2] - 109:10,
 218:5

Z

Zelinski ^[2] - 277:2,
 277:9

zero ^[4] - 71:5, 71:9,
 140:8

ZINC ^[1] - 145:18

Zinc ^[3] - 123:1,
 146:1, 156:1

zone ^[14] - 160:10,
 164:3, 165:5, 167:7,
 167:9, 167:10,
 167:16, 238:18,
 239:4, 251:3,
 255:10, 255:14,
 255:18

zoned ^[1] - 151:17

ZONING ^[1] - 1:1

zoning ^[22] - 116:18,
 127:14, 127:18,
 130:11, 130:14,
 131:18, 132:2,
 133:5, 133:10,
 133:16, 134:4,
 142:11, 149:7,
 150:9, 155:13,
 166:8, 175:15,
 176:14, 189:15,
 197:5, 228:16,
 273:12

Zoning ^[11] - 1:11,
 3:8, 33:3, 46:15,
 76:12, 127:15,
 137:15, 165:7,
 275:7, 276:5,
 276:14