

PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on January  
6th, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

January 6th, 2015  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

DENNIS MIETZ, CHAIRMAN  
CHRISTINE CORRADO  
JEANNE DALE  
JUDY SCHWARTZ  
ANDREA TOMPKINS WRIGHT  
CANDICE BAKER LEIT, ESQ.

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DiSTEFANO  
Secretary

Reported by: CHAD L. SMITH, Court Reporter  
EDITH E. FORBES COURT REPORTING SERVICE  
21 Woodcrest Drive  
Batavia, New York 14020

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3 MR. MIETZ: I would like to call to order the  
4 January session of the Brighton Zoning Board of  
5 Appeals.

6 Rick, was the meeting properly advertised?

7 MR. DiSTEFANO: Yes, Mr. Chairman. It was  
8 advertised in the Brighton Pittsford Post of December  
9 31, 2015.

10 MR. MIETZ: Okay. Would you please call the  
11 roll?

12 MR. DiSTEFANO: Please let the record show  
13 all members are present.

14 MR. MIETZ: Okay. So we have two sets of  
15 minutes to look at. I guess we'll do the longer  
16 minutes, the November minutes first.

17 Do we have some corrections?

18 Judy?

19 MS. SCHWARTZ: Page 37, line 9, towards the  
20 end of the sentence the word is right, r-i-g-h-t.

21 Page 39, there's -- I think we all should  
22 take a look, it's the last two lines, 24 and 25.  
23 There's something about front yard of three foot - in  
24 excess of three feet six inches in height. And I'm  
25 really not quite sure how we want to say it because it

1  
2 doesn't read I don't think as accurately as we were --  
3 and it says and the last variance we are seeking is to  
4 allow fencing in the front yard area of three foot, in  
5 excess of three feet six inches in height.

6 Is it six feet?

7 MR. MIETZ: I think that the three foot is  
8 wrong because three and a half and then it goes on to  
9 say that we're allowed to have three feet six inches in  
10 height around the outside, but we need a little taller  
11 in front. I think that's what --

12 MS. SCHWARTZ: So what should we --

13 MR. MIETZ: -- they were asking for.

14 MR. DiSTEFANO: Which application was this?

15 MR. MIETZ: This is the Jewish Home, so it's  
16 11 --

17 MR. DiSTEFANO: Yeah, it was six feet.

18 MS. SCHWARTZ: It's six feet?

19 MR. DiSTEFANO: What they were requesting was  
20 six feet.

21 MS. SCHWARTZ: All right.

22 MR. MIETZ: The front yard area is six feet.

23 MS. SCHWARTZ: Six feet.

24 MR. MIETZ: So that's why --

25 MR. DiSTEFANO: So just give Chad what number

1  
2 you're --

3 MS. SCHWARTZ: Line 24, page 39.

4 MR. DiSTEFANO: Right, and just what you want  
5 switched.

6 MS. SCHWARTZ: Seeking as well the fencing in  
7 the front yard to be six feet. And so take out the  
8 three feet. And then we could say in excess --

9 MR. DiSTEFANO: No, just --

10 MS. SCHWARTZ: Leave it out?

11 Okay.

12 All right. On page 40, line 20, the word is  
13 documented.

14 Page 41, line 18, the second last word is I  
15 believe open.

16 Page 53, line 14, the first word is sort.

17 Page 54, line 9, the word is where,  
18 w-h-e-r-e.

19 Page 73, line 6, the first word is that. And  
20 towards the end of it the word is placed.

21 Page 110, line 24, the word in the middle of  
22 the sentence is created.

23 And that's all that I have.

24 MR. MIETZ: Okay. Anything else?

25 MS. CORRADO: I have a few to add.

Page 25, line 17, the word site should be s-i-g-h-t.

Page 34, line 3, the last word should be led, l-e-d.

Page 79, line 2, in the middle of the line there, grat should be grate, g-r-a-t-e.

And that's all.

MR. MIETZ: Okay. Anything else?

Can I have a motion to approve the minutes?

(Motion to approve the November amended minutes made by Ms. Corrado.)

(Seconded by Ms. Schwartz.)

(Upon roll call, motion to approve the November minutes carries.)

MR. MIETZ: Okay. We have the holiday minutes from December.

Any comments on the December minutes?

MS. SCHWARTZ: And there were some - there were pages 5 and 6 missing in the front - or pages 6 and 7.

MR. DiSTEFANO: I'm sorry, what?

MS. SCHWARTZ: Pages 6 and 7.

MR. MIETZ: Missing out of it.

MR. DiSTEFANO: Really?

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MS. SCHWARTZ: In December.

Okay. Anyways, on page 11, line 9, the last word is quick.

Page 17, line 15, after the first word going add the word to, t-o.

And on page 42, findings of fact line 23, it's road not avenue.

That's all I have.

MS. CORRADO: Only one; page 22, line 23, add the word at the end of the line hindsight - twenty twenty hindsight.

MR. MIETZ: Okay. Anything else?

MS. BAKER LEIT: I just have a couple.

On page 18, line 25, it's should be possessive, i-t-s.

And just for clarity, it says like reval. I don't know how you should spell it. Reval, it's just spelled r-e-v-a-l. It's like a reevaluation.

MR. MIETZ: I would just spell it out.

MS. BAKER LEIT: What's that?

MR. MIETZ: Reevaluation.

MS. BAKER LEIT: Should we spell it out?

MR. DiSTEFANO: Yeah.

MS. BAKER LEIT: First on page 18, line 25

1  
2 and page 19, line 2.

3 And page 24, line 23, I think there was an  
4 extra number there.

5 That's all I have.

6 MR. MIETZ: Okay. Anything else?

7 Okay. Motion?

8 (Motion made by Ms. Schwartz to approve the  
9 December amended minutes.)

10 (Seconded by Ms. Corrado.)

11 (Upon roll call, motion to approve the amended  
12 December minutes carries.)

13 MR. MIETZ: When you're ready, Rick, read the  
14 first application.

15 1A-01-16 Application of Anthony Meleo, owner of  
16 property located at 1680 Clover Street, for an Area  
17 Variance from Section 207-10E(5) to allow a driveway to  
18 extend to a lot line where a minimum 4 ft. setback is  
19 required by code. All as described on application and  
20 plans on file.

21 MR. DiSTEFANO: Just state your name and  
22 address for the record.

23 MR. MELEO: Anthony Meleo, 1680 Clover  
24 Street.

25 I've got county approvals to make the road

1  
2 cut. And then when I came into the town they told me I  
3 needed to have a variance for the driveway connecting  
4 through - into the driveway that's in the variance. So  
5 here I am.

6 The county said there wouldn't be a problem  
7 for a road cut from the site distance and all of the  
8 above that they check.

9 The reason - the main reason that I want to  
10 have this driveway come in the front is because at  
11 present the driveway that I have - as shown on your  
12 instrument map - goes from the house and it drops in  
13 elevation, and the garage is actually under my kitchen.  
14 So it -- anyway, you come to the front door and as you  
15 see from the instrument survey you have to park and  
16 walk around. And for somebody, friends and family that  
17 have difficulty walking that distance I wanted to put a  
18 driveway that loops back into the existing easement  
19 driveway that I have.

20 MR. MIETZ: All right. So how would you -  
21 just for the record, what would you construct this  
22 driveway out of?

23 MR. MELEO: Well according to the county I  
24 have to make the first six feet - I think it's six feet  
25 - asphalt, but to tie in with the rest of the driveways

1  
2 that are there - not concerning the driveway behind my  
3 house - are stone driveways. So I would go along with  
4 the stone driveway theme that is throughout the rest  
5 off the properties that -- there's two properties that  
6 have this easement.

7 MR. MIETZ: I understand, but so in other  
8 words you're going to come in six feet off of Clover  
9 Street and have it be gravel?

10 MR. MELEO: That's correct.

11 MR. MIETZ: That would match the gravel  
12 driveway on --

13 MR. MELEO: Yeah. There has been some talk  
14 by the two residents there that someday they may want  
15 to put in asphalt and I said at that point I would be  
16 happy to if they wanted to.

17 MR. MIETZ: To put it where; to put it in the  
18 new section?

19 MR. MELEO: No, the existing driveways.

20 MR. MIETZ: Okay, the existing driveways.

21 MR. MELEO: Yeah.

22 MS. SCHWARTZ: Let me ask you did you see the  
23 letter from your neighbors?

24 MR. MELEO: No, I didn't.

25 MS. SCHWARTZ: I think you should look at it.

1  
2 MR. MIETZ: Yeah, if you want to take a  
3 minute and read that over.

4 MR. MELEO: As far as any trees being taken  
5 down, there wouldn't be. And I mentioned that to the  
6 neighbor behind me that owns the easement. So as far  
7 as the driveway taking any trees out, there isn't.

8 MR. DiSTEFANO: Do you have any questions in  
9 regards to that letter for the applicant?

10 MS. SCHWARTZ: No, I just wanted him to see  
11 it.

12 MS. TOMPKINS WRIGHT: So you're not planning  
13 any additional plantings in front of the road or the  
14 driveway?

15 MR. MELEO: Yes, I will be. But I won't be  
16 taking out any existing trees.

17 MR. MIETZ: But you're thinking that you  
18 might create something that might buffer a little of  
19 that between the road and the driveway. I think that's  
20 what the letter is talking about.

21 MR. MELEO: I wonder -- this would have been  
22 there for two years. And when I bought the property it  
23 was all stone up to a certain area. I cleared some of  
24 the stone but it keeps creeping back so -- but yeah I'm  
25 gonna --

1  
2 MR. MIETZ: Okay. Are there any questions  
3 from the Board members?

4 Okay. Thank you very much.

5 Is there anyone in the audience that would  
6 like to speak regarding this application?

7 There being none, the public hearing is  
8 closed.

9 MR. MELEO: Thank you.

10 MR. MIETZ: Okay.

11 1A-02-16 Application of Srbo Ivanisevic, agent, and  
12 Steven Gold, owner of property located at 205 Ashley  
13 Drive, for an Area Variance from Section 205-2 to allow  
14 a building addition to extend 3.4 ft. into the existing  
15 11.9 ft. side setback where a 14 ft. side setback is  
16 required by code. All as described on application and  
17 plans on file.

18 MR. MIETZ: Is there someone here for this  
19 application?

20 Thank you. Come on up.

21 Good evening.

22 MR. GOLD: Good evening.

23 MR. MIETZ: Just state your name and your  
24 address for the record please.

25 MR. GOLD: Steven Gold, 205 Ashley Drive.

1  
2 MR. MIETZ: Okay. So what are trying to do,  
3 Mr. Gold?

4 MR. GOLD: Okay. Well what we would like to  
5 do is build a sunroom where our slider is going into  
6 the backyard.

7 There is two reasons that we have to do that.

8 One is we need more space to have my dining  
9 room area because now we have like five grandchildren  
10 over the last three years. The oldest is three and a  
11 half - there's actually two between three and three and  
12 a half, they're some twins - identical twin girls, two  
13 others that are about a year old. And so the good news  
14 or maybe the bad news is every Sunday my wife and I  
15 host - like we have a family dinner. So we have -- my  
16 wife's parents are here -- so we have, you know, my  
17 three kids are here with their spouses, that's six, and  
18 my wife's is eight, and myself is ten and there's three  
19 children that have to sit around the dining room table  
20 and typically one of them wants to bring one of their  
21 friends. So we have like fourteen to like sixteen  
22 virtually every Sunday.

23 So, you know, in our kitchen area we have  
24 the, you know, an island which is near the dining room.  
25 It's too crowded because the way the seating is. So I

1  
2 want to actually have some room when people are over.  
3 I would slide it into the sunroom so - the dining room,  
4 which I -- first of all, I'd expand it and then I could  
5 slide it in and put portable tables so they're going  
6 into the sunroom and then that would make more room in  
7 the kitchen area. So just to have more space.

8 And then the second reason is my wife growing  
9 up - she's from Rochester - loves sunrooms. And she  
10 says to me that she would really love a sunroom. And  
11 if my wife loves a sunroom then I love a sunroom.

12 So that's two good reasons that I would like  
13 to do that.

14 And my third reason is that I have a  
15 beautiful contractor that is the best probably in  
16 Rochester right here(indicating) to build it for me.

17 MR. MIETZ: Okay.

18 MR. GOLD: And also I did speak with my  
19 neighbors -- well the one right next to me. I spoke  
20 with them today and they said that they had no problems  
21 with it at all. Because we have a cabana right now in  
22 the back that's actually - it goes pretty high. It's a  
23 pretty big cabana and it's, you know, just bolted to  
24 the cement. It goes right up against the lot line and  
25 that goes up pretty high because we've got a really big

1  
2 one. That's going to be taken down. So if anything  
3 the sunroom will be further away than right now this  
4 structure. We use that to eat outside with the  
5 screened in area and stuff like that.

6 MR. MIETZ: So that's going to be removed?

7 MR. GOLD: Definitely removed, yes.

8 MS. DALE: And do you plan -- you'll be  
9 keeping the fence?

10 MR. GOLD: The fence - we have a pool in the  
11 backyard and the fence is --

12 MR. MIETZ: Required.

13 MR. GOLD: And the fence is in good shape.  
14 Yeah, we're going to keep the fence which is six feet  
15 high. That will stay. So, you know --

16 MR. MIETZ: A question too: You described it  
17 as a sunroom, but this is going to be it says here a  
18 four-season room; is it going to be heated and used  
19 twelve months a year?

20 MR. GOLD: I would like to say it wasn't so I  
21 wouldn't have to pay extra taxes, but yes it will be a  
22 four-season. And you know we want a sunroom that's a  
23 four-season sunroom, so in a sense it's going to be  
24 like an actual addition in a sense.

25 MR. MIETZ: Okay. When you say sunroom I

1  
2 just want to make it clear for the record --

3 MR. GOLD: Right.

4 MR. MIETZ: -- what you really plan on  
5 building there. We don't have a drawing or an  
6 elevation or anything.

7 MR. GOLD: Right. It's only going to go up -  
8 you know, it's only going to be one level. It's not  
9 going to be - it's not going to go up to the top of the  
10 house. It's only going to be one level high, so --  
11 with a roof.

12 MS. CORRADO: Can you describe how the  
13 exterior is going to be finished?

14 MR. GOLD: In siding that will match the  
15 house. It will be the exact siding that we talked  
16 about.

17 UNKNOWN: Everything will match the existing  
18 house.

19 MR. MIETZ: Sir, you can come up so you can  
20 speak. Just give your name and address.

21 MR. IVANISEVIC: My name is Srbo Ivanisevic.  
22 And the exterior of the house will match the  
23 existing house so that it doesn't look like it's been  
24 added on. The same roofing materials and the same  
25 siding materials, same windows.

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MR. MIETZ: So it will just be a regular gable roof with --

MR. IVANISEVIC: Yes.

MR. MIETZ: -- asphalt shingles?

MR. IVANISEVIC: Yes. Vinyl white --

MR. MIETZ: It will be hooked to the gutter system in some fashion?

MR. IVANISEVIC: Yes.

MR. MIETZ: Okay.

MR. GOLD: And it will be - the slider that's there now will be removed. In other words, we want to be closer. It will be a twelve foot from the side of that twelve foot. So you just go right into it. The floor will be the same level. It will be a walk-through. You know, it just wouldn't make any sense - the slider wouldn't allow me to do what I want to do with the dining room area.

MR. MIETZ: Right.

Are we good; any questions?

Okay.

MS. TOMPKINS WRIGHT: Are you going to spell your name for --

MR. DiSTEFANO: It's on the agenda.

MS. TOMPKINS WRIGHT: I wanted to make sure.

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MR. MIETZ: All right, gentlemen. Thank you.

MR. GOLD: Thank you. Good night.

MR. MIETZ: Is there anyone in the audience that would like to speak regarding this application?

There being none, the public hearing is closed.

1A-03-16 Application of Anthony J. Costello and Son (Joseph) Development, LLC, agent, and Dr. Tim Mathews, owner of property located at 90 Pendleton Hill, for an Area Variance from Sections 203-2.1B(6) and 203-171C to allow a stand-by emergency generator to be located in a side yard in lieu of the rear yard behind the house as required by code. All as described on application and plans on file.

MR. MIETZ: Good evening.

MR. DALY: Good evening. My name is Bill Daly. I'm with the Costello Group. I'm here on behalf of Dr. Mathews, who resides at 90 Pendleton Hill, to request an area variance for a stand-by generator that has already been installed on the side yard in lieu of the rear yard.

The builder thought aesthetically it would be better in the side yard than in the backyard. And functionally, it's a relatively small backyard. To

1  
2 have a generator in the backyard the Mathews wouldn't  
3 be able to enjoy their backyard as much in lieu of it  
4 being on the side yard. On the side of the house there  
5 is the HVAC equipment for the house. The generator is  
6 the same size as the HVAC equipment and is adjacent to  
7 that. So we felt there was a minimal impact.

8 A building permit was applied for after the  
9 fact for the generator.

10 MS. SCHWARTZ: I'm just curious: It's brand  
11 new construction and everything out there is brand new  
12 and knowing our code as it is, how come there hasn't  
13 been thought given in the planning to say oh geez we  
14 need to have all of that stuff in the rear yard, or  
15 wasn't that ever thought about?

16 MR. DALY: I don't think he was aware of  
17 that.

18 MS. SCHWARTZ: So are we going to see lots of  
19 people coming in wanting side yard generators then?

20 Because --

21 MR. DALY: I think it's a function of the  
22 individual house. This one in particular has a  
23 relatively small backyard and the HVAC equipment was on  
24 the side of the house. You can't see it from the road,  
25 so it's pretty minimal impact.

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MS. DALE: Well you really can see it.

MS. SCHWARTZ: Yes, you --

MS. DALE: I brought a picture if you'd like to see it?

You absolutely can see it. So it bothered me a little bit that the application talks about not being able to see it.

MR. MIETZ: Yeah, I think you can see it. And for a lot of times you're going to --

MS. DALE: And the other thing I didn't understand, you know, with the diagram that was provided -- and I certainly understand you need to be by the existing HVAC, but I don't understand why it wasn't in like a parallel line behind the HVAC instead of to the side of it closer, to the lot line of the neighbor --

MR. DALY: Sure.

MS. DALE: I think -- I don't know why there wouldn't be room to just sort of line them up?

MR. DALY: Ideally that's what we probably prefer to do, but RG&E has a regulation that it has to be so far away from the house. That's another reason the builder thought it would be better to have it on the side of the house than in the back of the house

1  
2 because it has to be so many feet away from the house  
3 and any structures. So that's why it is where it is on  
4 the side of the house, not in line with the other  
5 equipment.

6 MS. DALE: Has any thought been given to some  
7 sort of shielding of this like plantings - or I know  
8 the neighbor next to me has like sort of two fence  
9 panels --

10 MR. DALY: Uhm-hum.

11 MS. DALE: -- to screen their air  
12 conditioner.

13 It's a beautiful house --

14 MR. DALY: It is.

15 MS. DALE: -- next to a beautiful house, and  
16 you've got this ugly robot looking thing right there.

17 I don't know, it's unfortunate you're asking  
18 for this after the fact it has already been done  
19 because I would like to uproot it and move it. But it  
20 would make me feel a lot better if you guys were going  
21 to do something to hide this.

22 MR. DALY: That's feasible --

23 MS. DALE: Okay.

24 MR. DALY: -- to screen it.

25 MR. MIETZ: And so what would we be talking

1  
2 about is some type of vegetation screening?

3 MS. DALE: Yeah, I think if I was the  
4 neighbor I would probably prefer like a two-panel  
5 corner or something.

6 MS. BAKER LEIT: I've also seen like fuller -  
7 fairly full bushes on like one on our street, you know,  
8 there's some kind of generator thing. And that may  
9 take longer to grow in, which is why the panels might  
10 be a better quick --

11 MS. DALE: I'd be bummed if I lived in that  
12 house next door. It's very, very close.

13 MR. MIETZ: And again, obviously --

14 Okay. Well do we have anything specific?

15 We can discuss a little bit further, but you  
16 would be open to some sort of mitigation?

17 MR. DALY: Correct.

18 MS. SCHWARTZ: Have they selected an hour for  
19 testing?

20 MR. DALY: I'm not sure of the hours of  
21 testing.

22 MS. SCHWARTZ: But it will be during the  
23 daytime?

24 MR. DALY: Correct.

25 MR. MIETZ: Rick, you reviewed the specs;

1  
2 it's okay as far as requirements?

3 MR. DiSTEFANO: Yeah, it seems that the  
4 decibels are well below the seventy-two decibels  
5 maximum.

6 MR. MIETZ: Okay.

7 All right. Any other questions?

8 MS. TOMPKINS WRIGHT: The owner of lot 10, do  
9 you know if they've made any comments about it, if  
10 they've complained at all about the generator being  
11 constructed where it is?

12 MR. DALY: I'm not aware of any.

13 MS. DALE: Is somebody in the house next door  
14 yet?

15 MR. DALY: Yes.

16 MS. DALE: Okay.

17 MS. CORRADO: At risking reconstruction, with  
18 the opportunity to consider where utilities are taking  
19 place, does the builder see the potential for more  
20 requests for such variances as the development builds  
21 out?

22 MR. DALY: Again, I think that's a function  
23 of the individual house, where it's located and the use  
24 of where the generator could potentially be based on  
25 that house and that lot. I think it's case by case.

1  
2 MS. CORRADO: And so future cases will be  
3 proactively decided --

4 MR. DALY: Correct.

5 MS. CORRADO: -- to ensure that they're in  
6 compliance and sited more appropriately?

7 MR. DALY: Correct.

8 MR. MIETZ: Okay. So any other questions?

9 MS. BAKER LEIT: Well I guess there's also  
10 the option of actually having a larger fence around the  
11 property.

12 Is that something that's been considered to  
13 show?

14 MR. DALY: Not that I'm aware of. We have to  
15 discuss that with Dr. Mathews.

16 MS. BAKER LEIT: Okay.

17 MR. DiSTEFANO: One problem that we do have,  
18 if you look at it, is there's an easement that runs  
19 right down between the two properties.

20 MR. MIETZ: Yup.

21 MR. DiSTEFANO: So a fence can't go into that  
22 easement - or I'm not sure exactly --

23 MS. BAKER LEIT: Oh, okay.

24 MR. DiSTEFANO: -- the wording of the  
25 easement, but you try to keep fences out of it. So

1  
2 that would cut off their property to some degree.

3 MS. TOMPKINS WRIGHT: You could do some  
4 shrubbery, some plantings somewhere up against it.

5 MR. DiSTEFANO: Yeah, you can do something.  
6 You can probably do that small screen fence right  
7 around it and if that's got to be moved it's no big  
8 deal.

9 If you were to run a fence down that entire  
10 property line --

11 MS. TOMPKINS WRIGHT: No. But even if you  
12 plant the shrubs and tear them out, I mean --

13 MR. MIETZ: Why don't we discuss it, as far  
14 as what --

15 MS. BAKER LEIT: Okay.

16 MR. MIETZ: Okay. Any other questions?

17 Okay. Thank you.

18 MR. DALY: Thank you.

19 MR. MIETZ: Is there anyone in the audience  
20 who would like to speak regarding this application?

21 There being none, the public hearing is  
22 closed.

23 1A-04-16 Application of Sustainable Energy

24 Developments, Inc., agent, and Timothy and Theresa

25 McGowan, owners of property located at 96 Westland

1  
2 Avenue, for an Area Variance from Section 207-49B to  
3 allow roof mounted solar panels to extend above the  
4 peak of the roof where not allowed by code. All as  
5 described on application and plans on file.

6 MR. MIETZ: Okay. Good evening.

7 MS. CONNOLLY: Hello. So my name is  
8 Kathleen. I'm representing Sustainable Energy  
9 Developments, which is representing our client the  
10 McGowans.

11 MR. DiSTEFANO: Kathleen, your last name  
12 please?

13 MS. CONNOLLY: Connolly -- at 96 Westland  
14 Avenue.

15 So for our proposed installation we have two  
16 different arrays, one on the east roof - which is  
17 completely in compliance with all of the rules and  
18 regulations of Brighton. So tonight the one we'll be  
19 talking about is on the south roof, that consists of  
20 eight modules.

21 So in your guys' law it says that the top of  
22 the modules cannot go past the peak of the roof. So in  
23 the packet there's a nice little image to kind of  
24 represent what we're talking about.

25 So modules when they're installed on a roof

1  
2 they get installed a little above it just due to the  
3 rail and the flashing and that kind of a mount. So  
4 they can be installed about five inches from the top of  
5 the modules to the bottom of the roof. So due to the  
6 height difference, even if the modules are completely  
7 on the surface of the roof the edge of them will still  
8 be above a little bit of the peak.

9 MR. MIETZ: Of the other roof?

10 MS. CONNOLLY: Yup.

11 So the roof in question is the roof in the  
12 backyard. So the only person that would be able to see  
13 the modules peeking over the top of the roof is  
14 actually the neighbors on the right-hand side. And we  
15 have a letter from the neighbors in our packet that  
16 says they approve of the project and they have no  
17 problems with the aesthetics.

18 Unfortunately, the easy solution is that I  
19 move the modules - just scoot them down a little  
20 further. But as you might be able to tell from the  
21 site plan it's a pretty tight install - it's only about  
22 four inches from the top of the roof to the bottom of  
23 the roof to play with. So there isn't enough space to  
24 be able to do that to make it fully in compliance.

25 MR. MIETZ: Do you also want to talk about

1  
2 the orientation of the roof and how it relates to how  
3 systems such as these get designed?

4 MS. CONNOLLY: Sure. So the best roof to  
5 install on always is always the south-facing roof. In  
6 solar you just get the most radiation from there, so  
7 that's going to give you the best production. So  
8 that's actually the roof that's in question right now,  
9 which is the south-facing roof. Which is really why we  
10 want to maximize that space because we want to do the  
11 best for our customer. We want the best production and  
12 that's where we're going to get it.

13 So generally your second option, if the south  
14 won't work, is you want to go to the west-facing roof.  
15 So the west-facing roof is actually the roof that faces  
16 the road. So that would be in the front of the house,  
17 so that's problem number one. Problem number two is  
18 there is a huge beautiful tree in the front yard. So  
19 in order to do that you would have to completely  
20 obliterate the tree, which we don't want to do.

21 So that's why we've really tried to maintain  
22 the south-facing roof.

23 MR. MIETZ: Okay. So it would be fair to say  
24 that if you removed a couple of the modules then the  
25 production on that south side would be minimized by

1  
2 some percentage?

3 MS. CONNOLLY: Correct. So we've already  
4 maximized basically the efficiency of the panels, so  
5 unfortunately that's not an option. We can't really  
6 get higher efficiency modules. We've already done that  
7 to try and up the production. And if we did get rid of  
8 the four modules that are in question, that would  
9 actually knock it out of operation with the inverter  
10 that we use, so we would no longer be able to use the  
11 equipment that was proposed. It would be too small to  
12 work on a normal string converter. And our customers  
13 wouldn't be happy because the production would be  
14 extremely awful.

15 MR. MIETZ: Would you be able to guess upon a  
16 percentage basis how much lower it would be?

17 MS. CONNOLLY: Yup. It would be about thirty  
18 percent lower.

19 MR. MIETZ: Okay.

20 MS. CONNOLLY: So it's pretty significant.

21 MR. DiSTEFANO: And the modules themselves  
22 are standard size; they can't be modified to be a  
23 little smaller?

24 MS. CONNOLLY: Unfortunately, no. They're -  
25 between different module manufacturers they're pretty

1  
2 standard sizes. Sometimes they can differ by about an  
3 inch or so, but unfortunately they usually differ in  
4 the width and not necessarily the height. So switching  
5 to a different manufacturer wouldn't solve our problem.

6 MR. MIETZ: Okay. Any other questions?

7 MS. SCHWARTZ: Thank you for --

8 MR. MIETZ: Thank you very much.

9 MS. CONNOLLY: Thank you.

10 MR. MIETZ: Okay. Is there anyone in the  
11 audience who would like to speak regarding this  
12 application?

13 There being none, the public hearing is  
14 closed.

15 1A-05-16 Application of Anthony J. Costello and Son  
16 (Joseph) Development, LLC, agent, and The Reserve  
17 Association, Inc., owner of property located at 1  
18 Reserve View Blvd., for an Area Variance from Section  
19 205-172C(3) to allow an accessory building (boat  
20 house/maintenance building) to have a 23.3 ft. roof  
21 peak height in lieu of the maximum 16 ft. height  
22 allowed by code. All as described on application and  
23 plans on file.

24 MR. GOLDMAN: Good evening, Mr. Chairman and  
25 Members of the Board. My name is Jerry Goldman, I'm

1  
2 the attorney and agent for Anthony J. Costello and Son  
3 and The Reserve Association. With me tonight in this  
4 application and the primary presenters is going to be  
5 Jim Fahy, who is the project architect, and we have  
6 other individuals who are familiar with the site if  
7 there are questions. We are making this application  
8 for a roof height variance of an accessory structure.

9 By way of background, along the canal  
10 frontage, as part of the incentive zoning approval for  
11 The Reserve, there were originally to be six loft  
12 buildings which would be five stories in height - could  
13 have been upwards of seventy-five feet in height - as  
14 part of the incentive zoning approval. In the  
15 development of the site it became apparent that there  
16 was some desire to see some of those buildings scaled  
17 down in size. And in conjunction with some of the  
18 other changes that were done at The Reserve the  
19 developer did agree to limit the number of buildings  
20 instead of six and to make them four stories instead of  
21 five, and the maximum height which was allowed for the  
22 buildings was reduced from seventy-five feet at its  
23 highest to sixty-five feet at its highest - so a ten  
24 foot reduction in height. The net result in the  
25 reduction from six stories - excuse me, from the five

1  
2 stories to four was that we scaled down and we now have  
3 the five buildings, one of which is on the west of the  
4 club house and there are three that are on the east -  
5 four that are on the east of the club house.

6 The place where the last building was going  
7 to go is now being converted to a boat house, which  
8 will function both as an accessory structure for boat  
9 storage as well as for storage in conjunction with the  
10 residential uses on the site.

11 From an aesthetic point of view we did  
12 present to the Planning Board our application for the  
13 building with both the mansard roof and the pitched  
14 roof. The mansard roof which is more or less a flat  
15 roof would comply with the sixteen foot requirement.  
16 The Planning Board overwhelmingly wanted us to and  
17 encouraged us to apply for the variance for the pitched  
18 roof.

19 When it comes to any more detail than that  
20 relative to the structure I want to turn it over to the  
21 project architect to explain the aesthetics and the  
22 rational for the requested peak height, and then I'll  
23 wrap up afterwards.

24 MR. FAHY: Thank you Jerry.

25 Good evening. My name is Jim Fahy from Fahy

1  
2 Design Associates. We are the architects for not only  
3 the loft building but for all of the residential units  
4 at The Reserve. So we are intimately involved with the  
5 entire community.

6 The reason for this, and I think that Jerry  
7 touched on where we're going with this boat house and  
8 why do we have the boat house - I won't labor on this  
9 too much, but there is a real need for not only general  
10 storage for the community, for maintenance equipment,  
11 storage of lawn furniture by the pool, paper goods,  
12 things that are needed by the actual running  
13 administration of the community, but there's also needs  
14 for recreational equipment such as bikes, rowing sculls  
15 and things of that nature. Being on the canal and  
16 promoting this canal front environment there will be  
17 recreational toys for those that live at The Reserve to  
18 come in and use and possibly even store in a minor  
19 amount things that they may even have themselves. So  
20 it's a storage - it's a real storage need.

21 In designing this we looked at three main  
22 criteria in the two concepts that we reviewed. We were  
23 looking principally at the exterior architectural  
24 aesthetics of the building as a stand-alone building  
25 and as it relates to the architectural elements and

1  
2 features of the adjacent loft building. Secondly, we  
3 looked at that building as it relates contextually to  
4 its environment; how does it relate in scale and mass  
5 to the loft building adjacent to it. And thirdly, we  
6 wanted to make sure we're putting a building up that  
7 was from a viewshed most appropriate, not only from the  
8 community of The Reserve but also for the public  
9 walking along the canal.

10 We've shown you two options. They're shown  
11 behind me. Option A(indicating) which is our preferred  
12 option. Option B(indicating) that Jerry touched on,  
13 that is in compliance with your zoning of sixteen feet.

14 A quick summary, Option B - you have them  
15 right in front of you, you can see them pretty closely.  
16 Our first review of that we feel that building is  
17 elongated, kind of a squatty feel to it. I don't think  
18 very attractive to be honest. It was difficult to  
19 relate the architectural features of the loft buildings  
20 to this mainly because we have larger gable accents  
21 coming into the loft. We weren't able to create that  
22 type of feature on the building keeping it at sixteen  
23 feet.

24 Secondly, as a low building it really doesn't  
25 fit in well with a four-story loft adjacent to it that

1  
2 has a rich height of sixty-three feet, a mean roof of  
3 fifty-four feet and it just doesn't fit in the  
4 environment in our opinion.

5 And thirdly, and I think probably as  
6 important as anything, the viewshed impact from the  
7 canal. The canal pathway is about seven feet higher  
8 than the floor of this boat house. Now with the  
9 mansard roof that -- those that don't really understand  
10 what a mansard roof is, it's really a false roof that  
11 goes around the perimeter and it hides the flat roof of  
12 the building. From that canal path you'll be able to  
13 see over that mansard. You'll catch a glimpse of the  
14 flat roof and you'll probably see the back of the  
15 mansard on the opposite side. Not overly appealing for  
16 the view.

17 Our second option I think is more in scale  
18 and massing with the loft building. It allows us to  
19 replicate many of the features that are in the loft  
20 building, so it fits within the environment better  
21 architecturally. And thirdly, it eliminates all of  
22 those negative view impacts that we feel are  
23 principally from the canal path and the public  
24 viewshed.

25 MS. DALE: So what is it going to look like

1  
2 on the opposite side?

3 MR. FAHY: Exactly the same with the  
4 exception of there -- I didn't show you a floor plan,  
5 but an access door on this corner(indicating) to get  
6 into a storage area where we're going to store bikes  
7 and sculls and things of that nature. But the building  
8 will be symmetrical north, south and east and west.  
9 Basic roof lines will be the same.

10 MS. SCHWARTZ: I have a couple comments.

11 One, there's no sign out - at least I didn't  
12 see one on the property as to the exact location.

13 Secondly, it would have been helpful if the  
14 drawing of the plan would have been a little bit larger  
15 so if there's anything else coming down the pike, which  
16 probably I would imagine, it would be nice if it could  
17 be blown up at least once more. You couldn't read any  
18 of the writing.

19 MS. DALE: Do you mean on the --

20 MS. SCHWARTZ: Yeah.

21 MR. FAHY: Would you like to see a larger  
22 site plan?

23 MS. SCHWARTZ: No, no, no. Have it - you  
24 know, I mean it could be a larger piece of paper so  
25 that you could read.

1  
2 MR. FAHY: Are you talking -- I'm sorry, are  
3 you talking --

4 MS. SCHWARTZ: It's not --

5 MR. DiSTEFANO: Judy, that is something that  
6 I said was fine because I didn't think that the site  
7 planning issue was that big of a deal. So I suggested  
8 that instead of a huge sheet, that would be workable.

9 MS. SCHWARTZ: Well the other thing is too, I  
10 think it would be extremely helpful to see a drawing to  
11 scale with these three proposed buildings so that we  
12 really know what's going to be with the lofts and the  
13 club house and this building.

14 So what I wanted to ask you is did you ever  
15 consider the conventional roof line, if you will, to  
16 meet our code of sixteen feet?

17 MR. FAHY: It really -- I can't with a  
18 building -- the outline of this building is principally  
19 sixty feet wide by fifty-plus feet deep. I can't build  
20 a truss roof on that deep and stay within your code.

21 MS. SCHWARTZ: So what's your square footage  
22 of this facility?

23 MR. FAHY: It's a three thousand square feet  
24 on the main floor and there will be a basement level  
25 that will have partial storage down below.

1  
2 MS. SCHWARTZ: Okay. See, we didn't have no  
3 square -- I didn't see written on this. But I didn't  
4 see square footage see written anywhere. So I really  
5 was, you know, at a disadvantage of not knowing really  
6 what -- all I saw was this little mark on your plan.

7 So you're saying that you've got the club  
8 house and there's going to be a loft and then there's  
9 going to be this?

10 MR. FAHY: Correct. This will be to the  
11 west. This(indicating) is on the westerly corner of  
12 the community.

13 I do have a larger site plan if you'd like to  
14 look at that; I'd be more than welcome to bring that up  
15 if you'd like to look at it?

16 It is accurately shown. That was presented  
17 in detail to the Planning Board.

18 MS. SCHWARTZ: Yeah, but that's not us.

19 MR. FAHY: No, but I'm just saying we do have  
20 that site plan and I thought you had mentioned that had  
21 not been really located. This is located exactly on a  
22 site plan. It is not - this is not something that's  
23 open to suggestion.

24 So we have the exact setback shown of this.  
25 It's on the westerly corner of the site. This in an

1  
2 area that previously a five-story loft building was  
3 approved by the Planning - Zoning Board of the town.

4 And, you know, I think our impact here is so  
5 much less. We're going in such a positive direction  
6 with everything we're doing here. We've reduced the  
7 size of these lofts from five stories to four. We're  
8 taking a building out. We're just -- everything is  
9 moving to really become, I think, in favor of a  
10 residential community.

11 MS. SCHWARTZ: I think you had to reduce the  
12 height. It's not -- I think that's a requirement to  
13 reduce the height because of the change in quite a few  
14 neighborhoods.

15 MR. FAHY: No, no it wasn't. That was not.  
16 We were approved -- actually it's seventy-five feet.

17 Jerry, is that correct?

18 MR. GOLDMAN: Yeah, initially.

19 MR. FAHY: Seventy-five feet and five  
20 stories. We've made that decision purely on our own.  
21 There was no driving force other than our own to do  
22 this.

23 MS. BAKER LEIT: So just a quick question:  
24 Will concept A allow for more storage?

25 It sounds like a very ambitious amount --

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MR. FAHY: No.

MS. BAKER LEIT: So it's just --

MR. FAHY: This is not a functional decision.  
This is purely exterior aesthetics only.

MR. DiSTEFANO: So there's no second floor to  
this?

MR. FAHY: There's no second floor.

MR. DiSTEFANO: There's a basement level  
which has some storage and then the main level which is  
open all the way to the --

MR. FAHY: Well, it's not going to be open to  
the ridge.

MR. DiSTEFANO: But it's going to?

MR. FAHY: We're planning between a nine and  
ten foot ceiling on the inside. I may in the areas  
where we're going to put racks for storage of sculls  
and kayaks and so forth. I may vault that section so I  
can get higher racks in there.

MS. BAKER LEIT: Right.

MR. FAHY: But it will all be housed within  
this area.

MS. BAKER LEIT: Yeah.

MR. FAHY: Within that building.

MS. BAKER LEIT: That was my concern because

1  
2 typically boat houses are large enough for something --  
3 we would approve something that you wouldn't have to  
4 come back later and say oh, yeah this was --

5 MR. FAHY: I think a boat house isn't the  
6 terminology for this. I know, I designed the  
7 Mercy/McQuaid boat house that's over by the park. So I  
8 understand what goes on with those types of things.  
9 But I think we might be stretching the term boat house  
10 a little bit.

11 MS. CORRADO: With the exterior and windows,  
12 these are true windows?

13 MR. FAHY: These are trues windows.

14 MS. CORRADO: They're not aesthetic.

15 MR. FAHY: That's correct.

16 And all of the material will be exactly the  
17 material we're using on the lofts in the other  
18 buildings; all hardy plank siding, hardy shank accents,  
19 asphalt shingle roof, some light weight stone veneer.  
20 It will be a very attractive storage building.

21 MS. SCHWARTZ: And I'm assuming that you're  
22 far enough away, obviously you're not encroaching on  
23 anything down at that end?

24 MR. FAHY: I would say yes.

25 We have our civil engineer here if he wants

1  
2 to speak to that. If that's a question, Matt Tomlinson  
3 just so happens to be here.

4 MR. TOMLINSON: They promised me I wouldn't  
5 have to speak on this one. Matt Tomlinson, from  
6 Marathon.

7 The boat house location is right where the  
8 loft building previously was. It's inside the  
9 development area of the emergency egress road that's up  
10 to the canal path right now. So there's no impact to  
11 any environmental issue.

12 MS. SCHWARTZ: So you have that road, it's to  
13 the left as you're facing the canal?

14 MR. TOMLINSON: Correct.

15 MR. DiSTEFANO: Is this a heated building?

16 MR. FAHY: It will have I think space heating  
17 in it, Rick.

18 MR. DiSTEFANO: So it won't be an occupied  
19 building?

20 MR. FAHY: There will be a manager's office  
21 in there.

22 MR. DiSTEFANO: There will be a manager's  
23 office in there?

24 MR. FAHY: Yes. On the main floor I have a  
25 small section, very small area for

1  
2 maintenance/manager's office in the corner.

3 MS. SCHWARTZ: And it will just have what,  
4 water and electricity or not even water?

5 Heat only?

6 MR. FAHY: Heat, electricity. I don't want  
7 to rule out that -- no, there will definitely be water  
8 because we're going to have a small bathroom -  
9 single-use bathroom facility in there also.

10 MS. SCHWARTZ: Will there be any cooking in  
11 this facility at all?

12 MR. FAHY: No.

13 MS. SCHWARTZ: No little refrigerators or  
14 microwaves?

15 MR. FAHY: No.

16 MR. MIETZ: You said that the owners or the  
17 residents that are of the residential units would then  
18 have access to use this to either borrow or whatever  
19 some equipment and/or store maybe equipment of their  
20 own?

21 MR. FAHY: I may be speaking out of turn to  
22 say store equipment of their own. I know that Mr.  
23 Costello has made a commitment to have some use.

24 Bill, am I speaking out of turn here with  
25 this?

1  
2 I want to be careful with what I say here,  
3 but I'm designing a building so I want to --

4 MR. MIETZ: It's kind of important, so how  
5 this is going to be used we want to be sure.

6 MR. DALY: Sure. Bill Daly, Costello Group.

7 The intent of the building is for operational  
8 storage of operation equipment for The Reserve as well  
9 as personal residences' canoes and kayaks and things of  
10 that nature.

11 MR. MIETZ: So when you say personal  
12 residences' you mean their property will be stored in  
13 there?

14 MR. DALY: Canoes and --

15 MR. MIETZ: It's not going to be like units  
16 that are allowed to be used by anybody that lives in  
17 The Reserve that are owned by whomever; in other words,  
18 they're not going to be rented by the day to somebody  
19 or --

20 MR. DALY: No.

21 MR. MIETZ: Okay. So you don't see -- I  
22 guess what I'm trying to get at is what kind of traffic  
23 is going to be accessing this building?

24 I understand that maintenance part of it and  
25 all that, but are residents going to be coming in and

1  
2 out of here on a regular basis?

3 Is this sort of like -- how is this going to  
4 be used?

5 MR. DALY: The only reason a resident would  
6 go in and out of the building is to obtain their kayak  
7 or canoe. So in the summertime hopefully frequently  
8 they'd be using it.

9 MR. MIETZ: Okay. Is the intention with this  
10 bathroom facility to allow people to use it or is that  
11 just --

12 MR. DALY: No.

13 MR. MIETZ: -- for the employee or employees  
14 that are there?

15 MR. DALY: Just for the employee.

16 MR. MIETZ: Okay. Any further questions?

17 Okay. You're back.

18 MR. GOLDMAN: I said I was going to wrap up  
19 for a few minutes.

20 One, I would like the affidavit of post and  
21 public hearing sign. The sign was posted on the fence  
22 at the entry to the project. The reason why we're here  
23 is a bit of an anomaly under the code and that is  
24 because typically roof height and building height are  
25 measured from a point not at the peak or peaked roofs.

1  
2 But for access structures the code specifically calls  
3 it out as being to the peak, and that primarily is  
4 because accessory residential structures are typically  
5 thought to be part of a residential - single-family  
6 residential lot.

7 The other anomaly and something slightly  
8 different because this is part of an overall  
9 development, so to that extent we're applying a code  
10 provision which is kind of for and not really designed  
11 for this. We are within sixteen feet under traditional  
12 measurement for building height under the code for  
13 anything other than an accessory structure.

14 And to clarify, the overall building height  
15 issue with regard to all this was part of an overall  
16 discussion that was held with the town at length  
17 regarding to the overall development of the project.  
18 It was a proposal that was made by the developer and it  
19 was one that was accepted by the town.

20 With regard to the legal standards, I think  
21 we know that the legal standard - the primary legal  
22 standards is the benefit of the applicant as opposed to  
23 any detriment to the health, safety and welfare to the  
24 community by the granting of this variance. Our view  
25 is that there is no detriment. And as a matter of

1  
2 fact, we think that there is an aesthetic benefit to  
3 the community by the peak roof - which is pitched roof,  
4 which is being proposed for the site. And clearly  
5 there's a benefit to be able to have us go and design a  
6 building which is appropriate for the site, and it did  
7 meet with a lot of support from the Planning Board.

8 So all that having been said, the other five  
9 standards which are set forth in the application and  
10 also in the letter of intent and I'm not going to bore  
11 everybody with that again.

12 So if there are any other questions for us we  
13 would be glad to answer.

14 MS. CORRADO: Thank you very much for sharing  
15 the plans for the building itself.

16 I notice there's a dumpster enclosure on one  
17 side.

18 Can you speak a little bit to that and just  
19 how much service will be there and how that will be  
20 enclosed?

21 It runs off the edge of the sketch so it's  
22 not clear what that will end up looking like and how  
23 that will be visible say from the canal path.

24 MR. FAHY: Again, that has been -- it's part  
25 of the site plan. It will be a single dumpster area

1  
2 with a small section for a rollout compactor from the  
3 loft building. That will be brought out once a week,  
4 stored in that location until picked up and then  
5 brought back into the building, and then a couple small  
6 recycle bins.

7 It's approximately twelve feet in depth and  
8 twenty-five feet in width and will be enclosed with  
9 siding materials that will be complimentary to the  
10 building. We'll carry stone along that same structure.  
11 It will be an open-roof structure and then there will  
12 be gated openings on the loft side.

13 Will it be visible from the parking areas?

14 Yes, it will be. I don't think any different  
15 from any other dumpster enclosure that you would see at  
16 any other residential community.

17 MR. MIETZ: How tall will it be?

18 MR. FAHY: How tall?

19 I would think the height of it would be  
20 between five and seven feet in height, something on  
21 that order.

22 MS. CORRADO: And the use, will it be  
23 maintenance staff for the loft building or are the  
24 residents themselves responsible for bringing their  
25 refuse to that site?

1  
2 MR. FAHY: Every -- no. It -- well, it --  
3 the -- everyone has their own garbage in the  
4 single-families and in the townhomes.

5 At the loft buildings there are trash shoots  
6 on every floor and trash rooms on every floor. The  
7 shoots go down to a compactor. So there should be no  
8 trash from the residents of the loft buildings using  
9 this.

10 I don't know whether you're going to lock  
11 this or how you're going to plan to --

12 You'll probably lock it and use it more for  
13 your maintenance?

14 UNKNOWN: Right.

15 MR. FAHY: So there really is no need for the  
16 residents to use this. But I'm sure there will be a  
17 need from the club house principally for its use.

18 MS. CORRADO: Okay. Thank you.

19 MR. MIETZ: Any other questions from the  
20 Board?

21 Rick, do you have anything?

22 Okay. Thank you very much.

23 MR. GOLDMAN: Thank you.

24 MR. MIETZ: Thanks, Jerry.

25 Is there anyone in the audience who would

1  
2 like to speak regarding this application?

3           There being none, this public hearing is  
4 closed.

5 1A-06-16 Application of Kaupp Family, LLC, owner of  
6 property located at 1500 Brighton Henrietta Town Line  
7 Road, for 1) an Area Variance from Section 205-8 to  
8 allow building density to be 11,325 sf / acre, after  
9 construction of a 5,896 +/- sf building addition, in  
10 lieu of the maximum 10,000 sf / acre allowed by code;  
11 and 2) modification of an approved area variance  
12 (11A-03-04) to allow for expansion of an approved front  
13 yard parking area. All as described on application and  
14 plans on file.

15           MR. TOMLINSON: Good evening. My name is  
16 Matt Tomlinson, from Marathon Engineering. I've got  
17 John Kaupp and Joanne Lucas with me from JK Jewelry as  
18 well, if there's any questions that they can answer  
19 that you may have.

20           As mentioned, we're here for two variances -  
21 or a modification of one variance and one new variance  
22 tonight.

23           JK Jewelry is located at the intersection of  
24 Brighton Henrietta Town Line Road, Western Drive and  
25 Southern Drive, which is primarily the reason for the

1  
2 front yard parking variance modification that we're  
3 requesting.

4 JK Jewelry has been located at this property  
5 since 1997. And over the course of time they've had  
6 several expansions. They've purchased some property  
7 over the course of time. And they are proposing to add  
8 on to the building to provide space for some automated  
9 machines that they need in the manufacturing process  
10 for their jewelry manufacturing company. And that  
11 space instead of trying to - or having to move and  
12 build space, they want to do it here. But this is the  
13 space that they need in order to stay competitive and  
14 keep up with current manufacturing processes.

15 The parking expansion is adding ten spaces  
16 along an existing parking lot that's located fronting  
17 on Southern Drive. That's the variance modification  
18 that we're requesting. There was previously a density  
19 variance on the property and then JK Jewelry bought  
20 this piece here(indicating) and combined the lots. So  
21 the variance went away. But now we're back asking for  
22 it again because they need to expand again.

23 As far as the view goes, we will be --  
24 there's some pines along there fronting on the parking  
25 lot. We will be extending that row of pines. Similar

1  
2 landscaping. We've been to the Planning Board last  
3 month for a preliminary review and approval. We've  
4 also been before the Conservation Board. And we will  
5 be going to the ARB and Planning Board for final -  
6 hopefully - resolution of the variance that we're  
7 requesting tonight for next month.

8 So with that, if there's any questions that  
9 the Board may have I would be happy to answer them.

10 MS. TOMPKINS WRIGHT: So the business growth  
11 is more about the equipment - newer equipment that's  
12 coming in, than having additional employees and things  
13 like that?

14 MR. TOMLINSON: Yeah, that's correct. Great  
15 question.

16 Currently there will be no addition of  
17 employees. We are adding the spaces in order to bring  
18 it into compliance with the parking requirements. It's  
19 slightly under parked right now.

20 One other thing that I'm not here for  
21 approval for, but the dumpster fronts on Brighton  
22 Henrietta Town Line right now. The existing location  
23 is right next to a loading dock. And what this  
24 expansion is going to allow us to do is also relocate  
25 the dumpster, provide a new enclosure and get it out of

1  
2 the main front yard of Brighton Henrietta Town Line  
3 view. So that's part of the reason for it as well.

4 MS. TOMPKINS WRIGHT: Was there any thought  
5 of trying to expand the section along - I'm forgetting  
6 the name of the road.

7 MR. TOMLINSON: Western Drive?

8 MS. TOMPKINS WRIGHT: Yeah, Western Drive.

9 As one story, was there to maybe expanding  
10 that into a two story and adding some square footage  
11 without taking up more land?

12 MR. TOMLINSON: It's primarily manufacturing  
13 machinery that's going in there. I don't have a lot of  
14 the details to it. But it's heavier equipment --

15 MS. TOMPKINS WRIGHT: Okay.

16 MR. TOMLINSON: -- and structurally it won't  
17 necessarily support that.

18 MS. TOMPKINS WRIGHT: Got it.

19 And one other thing, the landscaping between  
20 this property and the property along Southern --

21 MR. TOMLINSON: Here(indicating)?

22 MS. TOMPKINS WRIGHT: That property right  
23 there, it makes a pretty good visual barrier between  
24 the two properties.

25 MR. TOMLINSON: Uhm-hum.

1  
2 MS. TOMPKINS WRIGHT: But I'm guessing a lot  
3 of it is going to have to come down when you expand the  
4 parking?

5 MR. TOMLINSON: There will be about a fifty  
6 foot buffer left there. This(indicating) shows the  
7 tree line cutting off. That does expand. That's more  
8 mature trees. There is scrub in there. We didn't show  
9 it here, but we do have it on our full site plans. I  
10 believe that's going to remain. We're only clearing  
11 what's necessary to build this. And we'll be planting  
12 some additional trees there.

13 MS. TOMPKINS WRIGHT: Some additional trees  
14 there?

15 MR. TOMLINSON: Yeah.

16 MR. MIETZ: Pines?

17 MR. TOMLINSON: Those will actually be  
18 deciduous trees that we're proposing there.

19 MR. MIETZ: Okay. Any other questions?

20 Rick?

21 Okay. Thank you very much.

22 MR. TOMLINSON: Thank you.

23 MR. MIETZ: Is there anyone in the audience  
24 that would like to speak regarding this application?

25 There being none, the public hearing is

1 closed.

2  
3 1A-07-16 Application of Joel Barrett, owner of property  
4 located at 15 Fairhaven Road, for an Area Variance from  
5 Section 207-2A to allow a front yard fence to be 6 ft.  
6 in height in lieu of the maximum 3.5 ft. in height  
7 allowed by code. All as described on application  
8 and plans on file.

9 MR. BARRETT: Good evening, everyone. My  
10 name is Joel Barrett.

11 And my interest in the fence is mostly due to  
12 I think I have somewhat of a unique corner lot because  
13 I don't have neighbors to the west of my fence. I have  
14 a school and a vacant lot that sits behind it. And  
15 additionally there's an eight foot chain-linked fence  
16 that runs along the back yard. It runs from Dorchester  
17 all the way down to Blossom Road. So I kind of, you  
18 know, want - was interested in having a fence due to  
19 the geographic uniqueness of the property.

20 So that was kind of - my thought process was  
21 there really isn't significant changes or detriments to  
22 nearby neighbors. I've talked to each of the neighbors  
23 that had visibility and each of them had approvals that  
24 I've attached, that they were okay with it.

25 I put a couple of different pictures in there

1  
2 so you can see the reasons around the fence - the  
3 chain-link that's in the backyard that is part of the  
4 city property. To the west of my property there is no  
5 other adjacent neighbors. And then there's also just  
6 due to having the school - a city school in the  
7 background - is the buses and cars and things like  
8 that. That's why I considered a higher fence - a  
9 greater height than normal fence height would be, you  
10 know, better.

11 I did point out a couple of safety concerns  
12 that had recently and, you know, they just happened to  
13 come up recently, but I do think that - I think that  
14 there's a slightly higher proclivity for events just  
15 due to my connection and proximity to the city in that  
16 location too. So there's a slight, you know - not a  
17 fear element, but, you know, a fence does -- I feel a  
18 fence at that height does provide me with greater  
19 protection than a three foot - a three and a half foot  
20 fence.

21 So primarily it's just that I don't -- it's  
22 difficult to say that there would really be major  
23 changes in character or detriment to the surrounding  
24 properties. You know, there's a little bit -- I  
25 consider there's some geographical uniqueness to the

1  
2 lot. And you really wouldn't be setting a precedent by  
3 granting that because I don't think there's another lot  
4 that's corner that also borders the city, based on my  
5 review of the site maps in the town. And also just the  
6 security and protection of a family associated with a  
7 taller fence on a lot that's bordering the city.

8 MR. MIETZ: Can you describe what the fence  
9 is going to look like?

10 MR. BARRETT: There's a picture of it.

11 MR. MIETZ: Yeah, I saw it, but can --

12 MR. BARRETT: The fence is --

13 MR. MIETZ: -- you discuss why you picked  
14 that instead --

15 MR. BARRETT: Oh, a horizontal plank?

16 MR. MIETZ: Yes.

17 MR. BARRETT: I'm just a fan of mid-century  
18 modern design. So I have a 1965 ranch. It's been  
19 completely opened up inside. I have the original  
20 mid-century modern built-in cabinets. So it's kind of  
21 a passion of that, to continue that aesthetic to the  
22 outside. And, you know, I watch a little bit about  
23 shows California or Pacific Northwest homes, and I  
24 think it's just a really modern design. Some people  
25 complimented me on it. Some people have said it's an

1  
2 interesting choice, which probably means they didn't  
3 like it. I think that goes with, you know, any time  
4 you're erecting something that's more modern or, you  
5 know, unique.

6 So I hope that that part of it, the aesthetic  
7 part of it wouldn't be totally held against me, but I  
8 can understand that some people may not have the same  
9 type of preference for that type of modern or  
10 mid-century modern type fence.

11 MR. MIETZ: Candice, any questions?

12 MS. BAKER LEIT: So you have -- all of your  
13 neighbors that are within the sight lines have signed  
14 off on it and don't have any problems with --

15 MR. BARRETT: No, they don't. I mean the  
16 other side of the road sits up a little bit higher so  
17 it's -- that's where I tried to make a point on what  
18 they perceived. So if the fence was directly behind  
19 the house versus there you kind of have the same sight  
20 line regardless. So it's not like I'm creating a wall,  
21 I think Rick used that term and I'll borrow it from him  
22 because it was a good one. But, you know, from the top  
23 of my neighbors there's a perception of a wall being  
24 there.

25 MS. BAKER LEIT: Right.

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MR. MIETZ: Okay. Any other questions?  
All set, Rick?  
Okay. Thank you very much.  
MR. BARRETT: All right. Thank you for your  
time.  
MR. MIETZ: Is there anyone in the audience  
who would like to speak regarding this application?  
There being none, the public hearing is  
closed.  
1A-08-16 Application of Andrew Sunberg, owner of  
property located at 494 North Landing Road, for renewal  
of a Temporary and Revocable Use Permit pursuant to  
Section 219-4 to allow for the sale of pizza, deli  
items and fried foods in conjunction with a preexisting  
nonconforming grocery business in a RLB - Residential  
District. All as described on application and plans on  
file.  
MR. SUNBERG: How you doing?  
My name is Andrew Sunberg. I own 494 North  
Landing Road. I'm in today to renew a temporary and  
revocable use permit.  
I've been there about nine years now. Still  
no complaints. We're a staple in the neighborhood. We  
do a lot to support the community. And we're just

1  
2 applying to renew the permit.

3 MR. MIETZ: No changes in the operation?

4 MR. SUNBERG: No, everything has been kept  
5 the same at this point.

6 MR. MIETZ: Okay.

7 MS. SCHWARTZ: You like to come in every two  
8 years.

9 MR. SUNBERG: I know, I look forward to  
10 seeing you guys.

11 MR. MIETZ: It's kind of a unique situation,  
12 but it sounds like you're, you know, respecting the  
13 neighborhood.

14 MR. SUNBERG: Yeah, we wouldn't exist without  
15 them. We do a lot now - we do a lot of fundraising  
16 with Mercy and Indian Landing. We support like the  
17 robotic club at Penfield. We do a lot of the boy scout  
18 troops now. We try to grow with the community.

19 MR. MIETZ: Hopefully it returns to your  
20 investment.

21 MR. SUNBERG: Yeah, we're trying.

22 MR. MIETZ: Okay. Thank you.

23 MR. SUNBERG: Thank you very much.

24 MR. MIETZ: Is there anyone in the audience  
25 who would like to speak regarding this application?

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There being none, the public hearing is  
closed.

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REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated

At Rochester, New York

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Chad L. Smith

2 PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS  
3 AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK on January  
6th, 2015, COMMENCING AT APPROXIMATELY 7:15 P.M.

4 January 6th, 2015  
5 Brighton Town Hall  
2300 Elmwood Avenue  
6 Rochester, New York 14618

7  
8 PRESENT:

9 DENNIS MIETZ, CHAIRMAN  
10 CHRISTINE CORRADO  
JEANNE DALE  
11 JUDY SCHWARTZ  
ANDREA TOMPKINS WRIGHT  
CANDICE BAKER LEIT, ESQ.

12  
13 DAVID DOLLINGER, ESQ.  
Town Attorney

14 RICK DiSTEFANO  
15 Secretary

16  
17  
18 (The Board having considered the information presented  
19 by the Applicant in each of the following cases and  
having completed the required review pursuant to SEQRA,  
20 the following decisions were made:)

21  
22  
23  
24 Reported by: CHAD L. SMITH, Court Reporter  
EDITH E. FORBES COURT REPORTING SERVICE  
25 21 Woodcrest Drive  
Batavia, New York 14020

2 APPLICATION 1A-01-16

3 1A-01-16 Application of Anthony Meleo, owner of  
4 property located at 1680 Clover Street, for an Area  
5 Variance from Section 207-10E(5) to allow a driveway to  
6 extend to a lot line where a minimum 4 ft. setback is  
7 required by code. All as described on application and  
8 plans on file.

9 Motion made by Ms. Baker Leit to approve  
10 Application 1A-01-16.

11 **FINDINGS OF FACT:**

12 1. The requested variance is the minimal variance  
13 possible because the present driveway is located behind  
14 the home, which makes access to the home difficult for  
15 family members and friends with disabilities.

16 2. County approval already exists for the curb cut  
17 onto Clover Street for a driveway arching in front of a  
18 connecting gravel driveway on an adjacent easement.

19 3. No other alternatives can alleviate the difficulty  
20 and produce the desired result of improved access to  
21 the home.

22 4. No unacceptable change in the character of the  
23 neighborhood and substantial detriment to nearby  
24 properties is expected to result from the approval of  
25 this variance because the new driveway will be attached

2 to a pre-existing shared driveway on an easement, and  
3 may actually ease congestion on this existing driveway  
4 which is presently shared by three homes.

5 5. The alleged hardship is not self-created by the  
6 applicant.

7 6. The health, safety and welfare of the community  
8 will not be adversely effected, but instead may be  
9 improved by the change of traffic flow and other access  
10 to the residents.

11 **CONDITIONS:**

12 1. The variance will apply only to the driveway  
13 described in application and testimony.

14 (Seconded by Ms. Schwartz.)

15 (Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr.  
16 Mietz, yes; Ms. Corrado, yes; Ms. Schwartz, yes; Ms.  
17 Baker Leit, yes.)

18 (Upon roll call, motion to approve with  
19 conditions carries.)  
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2 APPLICATION 1A-02-16

3 1A-02-16 Application of Srbo Ivanisevic, agent,  
4 and Steven Gold, owner of property located at 205  
5 Ashley Drive, for an Area Variance from Section 205-2  
6 to allow a building addition to extend 3.4 ft. into the  
7 existing 11.9 ft. side setback where a 14 ft. side  
8 setback is required by code. All as described on  
9 application and plans on file.

10 Motion made by Ms. Corrado to approve  
11 Application 1A-02-16.

12 **FINDINGS OF FACT:**

13 1. The requested variance is the minimum variance  
14 possible as the house is originally sited on the  
15 irregularly shaped lot that is already non-conforming.

16 2. No other alternative can alleviate the difficulty  
17 and produce the desired result, namely the expansion of  
18 the owner's living and dining space to accommodate  
19 growing family gatherings and maintain access to the  
20 backyard pool.

21 3. No unacceptable change in the character of the  
22 neighborhood and no substantial detriment to nearby  
23 properties is expected to result from the approval of  
24 this variance, as the proposed addition will be a  
25 single-story and finished in a manner that matches the

2 existing structure. Additionally, the proposed  
3 addition will be partially screened from the  
4 neighboring property by fencing and is adjacent to the  
5 neighboring property's garage, therefore not infringing  
6 on the neighbor's view.

7 4. The alleged hardship was not self-created by the  
8 applicant.

9 5. The health, safety and welfare of the community  
10 will not be adversely effected.

11 **CONDITIONS:**

12 1. The variance will apply only to the structure that  
13 was described in the application and testimony, in  
14 particular it will not apply to additional expansions  
15 considered in the future that are not included in the  
16 present application.

17 2. All necessary town approvals and building permits  
18 shall be obtained.

19 (Seconded by Ms. Schwartz.)

20 (Ms. Dale, yes; Mr. Mietz, yes; Ms. Baker  
21 Leit, yes; Ms. Tompkins Wright, yes; Ms. Schwartz, yes;  
22 Ms. Corrado, yes.)

23 (Upon roll call, motion to approve with  
24 conditions carries.)

25

2 APPLICATION 1A-03-16

3 1A-03-16 Application of Anthony J. Costello and  
4 Son (Joseph) Development, LLC, agent, and Dr. Tim  
5 Mathews, owner of property located at 90 Pendleton  
6 Hill, for an Area Variance from Sections 203-2.1B(6)  
7 and 203-171C to allow a stand-by emergency generator to  
8 be located in a side yard in lieu of the rear yard  
9 behind the house as required by code. All as described  
10 on application and plans on file.

11 Motion made by Ms. Dale to approve  
12 Application 1A-03-16.

13 **FINDINGS OF FACT:**

14 1. The desire of the applicant is to locate the  
15 generator next to the HVAC unit and mechanicals which  
16 are located in the side yard.

17 2. The desire of the applicant is to have the  
18 generator located outside of the backyard due to the  
19 small size of the yard.

20 3. The health, safety and welfare of the community  
21 will not be adversely effected from the approval of  
22 this variance.

23 **CONDITIONS:**

24 1. The applicant shall establish screening of the  
25 generator to minimize the visual impact.

2       2. The variance applies only to the generator  
3 specifications as depicted in the application and the  
4 testimony presented.

5       3. All necessary building permits shall be obtained.

6               (Seconded by Ms. Baker Leit.)

7               (Ms. Schwartz, no; Ms. Tompkins Wright, yes;  
8 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, yes;  
9 Ms. Dale, yes.)

10              (Upon roll call, motion to approve with  
11 conditions carries.)

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2 APPLICATION 1A-04-16

3 1A-04-16 Application of Sustainable Energy  
4 Developments, Inc., agent, and Timothy and Theresa  
5 McGowan, owners of property located at 96 Westland  
6 Avenue, for an Area Variance from Section 207-49B to  
7 allow roof mounted solar panels to extend above the  
8 peak of the roof where not allowed by code. All as  
9 described on application and plans on file.

10 Motion made by Mr. Mietz to approve  
11 Application 1A-04-16.

12 **FINDINGS OF FACT:**

13 1. The proposed solar installation has a limited  
14 exposure due to the orientation of the existing roof  
15 surfaces.

16 2. In order to design a viable system the edge of this  
17 house facing array will be slightly above the height of  
18 the roof and the top of the gable.

19 3. No other alternative design can meet the needs of  
20 the applicant to be able to create a viable system  
21 without a thirty percent drop in efficiency.

22 4. No negative effect on the character of the  
23 neighborhood will result from the approval of this  
24 variance, since the south elevation of the array will  
25 not be visible from the street.

2        **CONDITIONS:**

3        1. This variance applies only to the design as  
4        proposed in drawings submitted and testimony given with  
5        respect to the location and size and configuration of  
6        the panels.

7        2. All necessary approvals shall be obtained.

8                    (Seconded by Ms. Tompkins Wright.)

9                    (Ms. Schwartz, yes; Ms. Corrado, yes; Ms.  
10        Baker Leit, yes; Ms. Dale, yes; Ms. Tompkins Wright,  
11        yes; Mr. Mietz, yes.)

12                    (Upon roll call, motion to approve with  
13        conditions carries.)

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2 APPLICATION 1A-05-16

3 1A-05-16 Application of Anthony J. Costello and  
4 Son (Joseph) Development, LLC, agent, and The Reserve  
5 Association, Inc., owner of property located at 1  
6 Reserve View Blvd., for an Area Variance from Section  
7 205-172C(3) to allow an accessory building (boat  
8 house/maintenance building) to have a 23.3 ft. roof  
9 peak height in lieu of the maximum 16 ft. height  
10 allowed by code. All as described on application and  
11 plans on file.

12 Motion made by Ms. Schwartz to approve  
13 Application 1A-05-16.

14 **FINDINGS OF FACT:**

- 15 1. The variance is substantial, but will not have an  
16 adverse effect on the area because the loft will be  
17 higher.
- 18 2. The structure being closest in proximity to the  
19 boat house is larger and the tallest structure in the  
20 area.
- 21 3. The proposed structure at twenty-three feet is more  
22 in keeping with the character of the neighborhood than  
23 a roof that is substantially lower that would meet the  
24 code.

25 **CONDITIONS:**

2 1. This variance is only for the height of the boat  
3 house as described in the written application and the  
4 testimony presented.

5 2. All necessary Planning Board and Architectural  
6 Review Board approvals shall be obtained.

7 (Seconded by Ms. Baker Leit.)

8 (Ms. Corrado, yes; Mr. Mietz, yes; Ms.  
9 Tompkins Wright, yes; Ms. Dale, yes; Ms. Baker Leit,  
10 yes; Ms. Schwartz, yes.)

11 (Upon roll call, motion to approve with  
12 conditions carries.)

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2 APPLICATION 1A-06-16

3 1A-06-16 Application of Kaupp Family, LLC, owner  
4 of property located at 1500 Brighton Henrietta Town  
5 Line Road, for 1) an Area Variance from Section 205-8  
6 to allow building density to be 11,325 sf / acre, after  
7 construction of a 5,896 +/- sf building addition, in  
8 lieu of the maximum 10,000 sf / acre allowed by code;  
9 and 2) modification of an approved area variance  
10 (11A-03-04) to allow for expansion of an approved front  
11 yard parking area. All as described on application and  
12 plans on file.

13 Motion made by Ms. Tompkins Wright to  
14 approve Application 1A-06-16.

15 **FINDINGS OF FACT:**

16 1. The granting of the requested variance will not  
17 produce an undesirable change in the character in the  
18 neighborhood or be a detriment to nearby properties and  
19 is not substantial. With respect to the addition of  
20 the building, the increased square footage will be  
21 positioned behind the already existing building, and  
22 the streetscape from Brighton Henrietta Town Line Road  
23 and Western Drive will not be altered. Further, the  
24 applicant testified that the parking and new building  
25 addition will be well landscaped.

2 2. The benefit sought by the applicant cannot be  
3 reasonably achieved by any other method, and the  
4 variances granted are the minimum necessary to grant  
5 relief from the applicant's difficulty. The property  
6 has three front yards due to being bounded on three of  
7 its four sides by roads, and thus any parking expansion  
8 would fall within the front yard. Further, the  
9 business conducted at this site has expanded such that  
10 they cannot continue at this property without  
11 additional building space.

12 3. There is no evidence that the proposed variances  
13 will have an adverse effect or impact on the physical  
14 or environmental conditions in the neighborhood or  
15 district.

16 4. The difficulty in expanding the parking lot without  
17 variance is not self-created as it is dictated by the  
18 increased parking needs of the business and the  
19 location of the property.

20 **CONDITIONS:**

21 1. The variances granted apply only to the  
22 construction of the addition and the ten additional  
23 parking spaces as depicted on the plans submitted and  
24 testimony given.

25 2. The building addition and additional parking area

2 will be well landscaped.

3 3. All necessary approvals and permits shall be  
4 obtained.

5 (Seconded by Ms. Schwartz.)

6 (Ms. Corrado, yes; Ms. Baker Leit, yes; Mr.  
7 Mietz, yes; Ms. Dale, yes; Ms. Schwartz, yes; Ms.  
8 Tompkins Wright, yes.)

9 (Upon roll call, motion to approve with  
10 conditions carries.)

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2 APPLICATION 1A-07-15

3 1A-07-16 Application of Joel Barrett, owner of  
4 property located at 15 Fairhaven Road, for an Area  
5 Variance from Section 207-2A to allow a front yard  
6 fence to be 6 ft. in height in lieu of the maximum 3.5  
7 ft. in height allowed by code. All as described on  
8 application and plans on file.

9 Motion made by Ms. Baker Leit to approve  
10 Application 1A-07-16.

11 **FINDINGS OF FACT:**

12 1. Although the requested variance is substantial,  
13 this is a corner lot such that the desired wooden six  
14 foot fence is located in a nominal front yard, which  
15 appears to be a side yard based on the entrance to the  
16 house.

17 2. No other alternative can alleviate the difficulty  
18 of providing adequate protection, privacy and security  
19 from the adjacent Rochester City School District School  
20 No. 46 property.

21 3. The character of the neighborhood will not be  
22 adversely impacted by the granting of this variance due  
23 to the Rochester City School District properties and  
24 there are no single-family homes that have a visual  
25 impact by this fence.

2 4. The health, safety and welfare of the community  
3 will no not be adversely effected by the approval of  
4 this variance request.

5 **CONDITIONS:**

6 1. This variance will apply only to the fence as  
7 described in the application and testimony.

8 2. All necessary building permits shall be obtained.

9 (Secoded by Ms. Tompkins Wright.)

10 (Ms. Schwartz, yes; Ms. Dale, yes; Mr. Mietz,  
11 yes; Ms. Corrado, yes; Ms. Tompkins Wright, yes; Ms.  
12 Baker Leit, yes.)

13 (Upon roll call, motion to approve with  
14 conditions carries.)

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2 APPLICATION 1A-08-16

3 1A-08-16 Application of Andrew Sunberg, owner of  
4 property located at 494 North Landing Road, for renewal  
5 of a Temporary and Revocable Use Permit pursuant to  
6 Section 219-4 to allow for the sale of pizza, deli  
7 items and fried foods in conjunction with a preexisting  
8 nonconforming grocery business in a RLB - Residential  
9 District. All as described on application and plans on  
10 file.

11 Motion made by Ms. Corrado to approve  
12 Application 1A-08-16.

13 **FINDINGS OF FACT:**

14 1. The present owner has an ongoing business in the  
15 community and is a viable part of that community. In  
16 fact, were there no neighborhood support for this  
17 business the applicant's business would not be  
18 sustainable. Additionally, there have been no  
19 complaints to the town in regard to any aspect of the  
20 business since renewal of this variance two years  
21 prior.

22 2. The variance will not alter the essential character  
23 of the neighborhood.

24 3. The alleged hardship is unique in this otherwise  
25 residential area.

2 4. The hardship has not been self-created.

3 **CONDITIONS:**

4 1. The use approved in this variance is only for the  
5 business as described in the application and testimony.

6 2. All waste from the business will be properly  
7 disposed of as per Section 207-14.2.

8 3. The hours of operation shall not exceed 7:00 a.m.  
9 to 9:30 p.m. There shall be no seating within or on  
10 the premises and consumption will not be allowed on the  
11 property.

12 4. External lighting, noise and odors shall be  
13 controlled so as to not annoy nearby residents.

14 5. This temporary and revocable use permit shall  
15 expire on January 6th, 2018.

16 (Seconded by Dale.)

17 (Ms. Schwartz, yes; Ms. Tompkins Wright, yes;  
18 Mr. Mietz, yes; Ms. Baker Leit, yes; Ms. Dale, yes; Ms.  
19 Corrado, yes.)

20 (Upon roll call, motion to approve with  
21 conditions carries.)

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## REPORTER CERTIFICATE

I, Chad L. Smith, do hereby certify that I did report in stenotype machine shorthand the proceedings held in the above-entitled matter;

Further, that the foregoing transcript is a true and accurate transcription of my said stenographic notes taken at the time and place hereinbefore set forth.

Dated

At Rochester, New York

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Chad L. Smith

<b>0</b>	<b>4</b>	advertised [2] 2/6 2/8
04 [2] 49/12 73/10	40 [1] 4/12	aesthetic [5] 31/11 40/14 46/2 56/21 57/6
<b>1</b>	41 [1] 4/14	aesthetically [1] 17/23
10 [1] 22/8	42 [1] 6/7	aesthetics [4] 26/17 31/21 32/24 39/5
10,000 [2] 49/10 73/8	46 [1] 76/20	affidavit [1] 44/20
10E [2] 7/17 63/5	494 [3] 58/12 58/20 78/4	after [5] 6/5 18/8 20/18 49/8 73/6
11 [2] 3/16 6/3	49B [2] 25/2 69/6	afterwards [1] 31/23
11,325 [2] 49/8 73/6	<b>5</b>	again [6] 21/13 22/22 46/11 46/24 50/22
11.9 [2] 11/15 65/7	5,896 [2] 49/9 73/7	50/22
110 [1] 4/21	53 [1] 4/16	against [3] 13/24 24/4 57/7
11A-03-04 [2] 49/12 73/10	54 [1] 4/17	agenda [1] 16/24
14 [3] 4/16 11/15 65/7	<b>6</b>	agent [9] 11/11 17/9 24/24 29/16 30/2
14.2 [1] 79/7	6th [5] 1/3 1/4 62/3 62/4 79/15	65/3 67/4 69/4 71/4
14020 [2] 1/25 62/25	<b>7</b>	agree [1] 30/19
14618 [2] 1/5 62/5	73 [1] 4/19	air [1] 20/11
15 [4] 6/5 54/4 76/2 76/4	79 [1] 5/6	all [56] 2/13 2/21 3/21 4/12 4/23 5/8 6/9
1500 [2] 49/6 73/4	7:00 [1] 79/8	7/5 7/19 8/7 8/20 10/23 11/16 13/4 13/21
16 [33] 7/15 11/11 17/8 24/23 29/15	7:15 [2] 1/3 62/3	17/2 17/14 18/14 22/7 22/10 25/4 25/17
29/21 49/5 54/3 58/11 63/2 63/3 63/10	<b>9</b>	29/22 32/3 34/21 37/6 39/11 39/21 40/16
65/2 65/3 65/11 67/2 67/3 67/12 69/2	90 [3] 17/10 17/19 67/5	40/18 42/11 43/25 45/15 46/8 49/13 54/7
69/3 69/11 71/2 71/3 71/9 71/13 73/2	96 [3] 24/25 25/13 69/5	54/17 57/12 58/3 58/5 58/17 63/7 65/8
73/3 73/14 76/3 76/10 78/2 78/3 78/12	9:30 [1] 79/9	66/17 67/9 68/5 69/8 70/7 71/10 72/5
1680 [3] 7/16 7/23 63/4	<b>A</b>	73/11 75/3 76/7 77/8 78/9 79/6
17 [2] 5/2 6/5	a.m [1] 79/8	alleged [3] 64/5 66/7 78/24
171C [2] 17/11 67/7	able [11] 18/3 19/8 26/12 26/20 26/24	alleviate [3] 63/19 65/16 76/17
172C [2] 29/19 71/7	28/10 28/15 33/21 34/12 46/5 69/20	allow [23] 3/4 7/17 11/13 16/17 17/12
18 [3] 4/14 6/15 6/25	about [21] 2/23 10/20 12/13 15/16 18/15	25/3 29/19 38/24 44/10 49/8 49/12 51/24
19 [1] 7/2	19/7 21/2 22/9 22/10 25/19 25/24 26/4	54/5 58/14 63/5 65/6 67/7 69/7 71/7 73/6
1965 [1] 56/18	26/21 26/25 28/17 29/2 34/7 51/11 53/5	73/10 76/5 78/6
1997 [1] 50/5	56/22 58/23	allowed [12] 3/9 25/4 29/22 30/21 43/16
1A-01-16 [4] 7/15 63/2 63/3 63/10	above [8] 8/8 25/3 26/2 26/8 61/6 69/7	49/10 54/7 69/8 71/10 73/8 76/7 79/10
1A-02-16 [4] 11/11 65/2 65/3 65/11	69/17 80/6	allows [1] 34/18
1A-03-16 [4] 17/8 67/2 67/3 67/12	above-entitled [2] 61/6 80/6	alone [1] 32/24
1A-04-16 [4] 24/23 69/2 69/3 69/11	absolutely [1] 19/6	along [9] 9/3 30/9 33/9 47/10 50/16
1A-05-16 [4] 29/15 71/2 71/3 71/13	accents [2] 33/20 40/18	50/24 52/5 52/20 54/16
1A-06-16 [4] 49/5 73/2 73/3 73/14	accepted [1] 45/19	already [7] 17/21 20/18 28/3 28/6 63/16
1A-07-15 [1] 76/2	access [7] 35/5 42/18 45/2 63/14 63/20	65/15 73/21
1A-07-16 [3] 54/3 76/3 76/10	64/9 65/19	also [13] 13/18 21/6 23/9 26/25 32/13
1A-08-16 [4] 58/11 78/2 78/3 78/12	accessing [1] 43/23	33/8 42/9 46/10 51/4 51/24 55/5 56/4
<b>2</b>	accessory [6] 29/19 30/8 31/8 45/4 45/13	56/5
2.1B [2] 17/11 67/6	71/7	alter [1] 78/22
20 [1] 4/12	accommodate [1] 65/18	altered [1] 73/23
2015 [5] 1/3 1/4 2/9 62/3 62/4	according [1] 8/23	alternative [3] 65/16 69/19 76/17
2018 [1] 79/15	accurate [2] 61/8 80/8	alternatives [1] 63/19
203-171C [2] 17/11 67/7	accurately [2] 3/2 37/16	Although [1] 76/12
203-2.1B [2] 17/11 67/6	achieved [1] 74/3	always [2] 27/5 27/5
205 [3] 11/12 11/25 65/4	acre [4] 49/8 49/10 73/6 73/8	am [2] 8/5 42/24
205-172C [2] 29/19 71/7	actual [2] 14/24 32/12	ambitious [1] 38/25
205-2 [2] 11/13 65/5	actually [12] 8/13 12/11 13/2 13/22	amended [3] 5/11 7/9 7/11
205-8 [2] 49/7 73/5	23/10 26/14 27/8 27/15 28/9 38/16 53/17	amount [2] 32/19 38/25
207-10E [2] 7/17 63/5	64/3	and/or [1] 42/19
207-14.2 [1] 79/7	add [4] 4/25 6/6 6/10 50/7	ANDREA [2] 1/10 62/10
207-2A [2] 54/5 76/5	added [1] 15/24	Andrew [3] 58/11 58/20 78/3
207-49B [2] 25/2 69/6	adding [3] 50/15 51/17 52/10	annoy [1] 79/13
21 [2] 1/25 62/25	addition [12] 11/14 14/24 49/9 51/16	anomaly [2] 44/23 45/7
219-4 [2] 58/14 78/6	65/6 65/24 66/3 73/7 73/19 73/25 74/22	another [2] 19/23 56/3
22 [1] 6/10	74/25	answer [3] 46/13 49/18 51/9
23 [3] 6/7 6/10 7/3	additional [8] 10/13 51/12 53/12 53/13	Anthony [8] 7/15 7/23 17/8 29/15 30/2
23.3 [2] 29/20 71/8	66/14 74/11 74/22 74/25	63/3 67/3 71/3
2300 [4] 1/2 1/5 62/2 62/5	additionally [3] 54/15 66/2 78/18	any [39] 5/18 10/4 10/7 10/8 10/13 10/16
24 [4] 2/22 4/3 4/21 7/3	address [3] 7/22 11/24 15/20	11/2 16/16 16/20 20/3 20/6 22/7 22/9
25 [4] 2/22 5/2 6/15 6/25	adequate [1] 76/18	22/12 23/8 24/16 29/6 31/19 35/17 41/11
2A [2] 54/5 76/5	adjacent [8] 18/6 33/2 33/5 33/25 55/5	42/10 44/16 45/23 46/12 47/14 47/15
<b>3</b>	63/18 66/4 76/19	47/16 48/19 49/18 51/8 52/4 53/19 57/3
3.4 [2] 11/14 65/6	administration [1] 32/13	57/11 57/14 58/2 74/3 74/7 78/19
3.5 [2] 54/6 76/6	adverse [2] 71/16 74/13	anybody [1] 43/16
31 [1] 2/9	adversely [5] 64/8 66/10 67/21 76/22	anyone [8] 11/5 17/4 24/19 29/10 48/25
34 [1] 5/4	77/3	53/23 58/7 59/24
37 [1] 2/19		anything [12] 4/24 5/9 6/13 7/6 14/2
39 [2] 2/21 4/3		15/6 21/14 34/6 35/15 40/23 45/13 48/21
		anyway [1] 8/14
		Anyways [1] 6/3
		anywhere [1] 37/4

**A**  
 apparent [1] 30/15  
 appealing [1] 34/15  
 APPEALS [3] 1/2 2/5 62/2  
 appears [1] 76/15  
 applicant [11] 10/9 45/22 62/18 64/6  
 66/8 67/14 67/17 67/24 69/20 73/24 74/2  
 applicant's [2] 74/5 78/17  
 application [71] 3/14 7/14 7/15 7/19  
 11/6 11/11 11/16 11/19 17/5 17/8 17/14  
 19/7 24/20 24/23 25/5 29/12 29/15 29/22  
 30/4 30/7 31/12 46/9 49/2 49/5 49/13  
 53/24 54/3 54/7 58/8 58/11 58/17 59/25  
 63/2 63/3 63/7 63/10 64/13 65/2 65/3  
 65/9 65/11 66/13 66/16 67/2 67/3 67/10  
 67/12 68/3 69/2 69/3 69/9 69/11 71/2  
 71/3 71/10 71/13 72/3 73/2 73/3 73/11  
 73/14 76/2 76/3 76/8 76/10 77/7 78/2  
 78/3 78/9 78/12 79/5  
 applied [1] 18/8  
 applies [2] 68/2 70/3  
 apply [6] 31/17 64/12 66/12 66/14 74/21  
 77/6  
 applying [2] 45/9 59/2  
 appropriate [2] 33/7 46/6  
 appropriately [1] 23/6  
 approval [10] 30/10 30/14 51/3 51/21  
 63/16 63/24 65/23 67/21 69/23 77/3  
 approvals [6] 7/25 54/23 66/17 70/7 72/6  
 75/3  
 approve [23] 5/10 5/11 5/14 7/8 7/11  
 26/16 40/3 63/9 64/18 65/10 66/23 67/11  
 68/10 69/10 70/12 71/12 72/11 73/14  
 75/9 76/9 77/13 78/11 79/20  
 approved [7] 38/3 38/16 49/11 49/12  
 73/9 73/10 79/4  
 approximately [3] 1/3 47/7 62/3  
 ARB [1] 51/5  
 arching [1] 30/17  
 architect [2] 30/5 31/21  
 architects [1] 32/2  
 architectural [4] 32/23 32/25 33/19 72/5  
 architecturally [1] 34/21  
 are [53] 2/13 3/3 9/2 9/3 11/2 12/2 12/13  
 12/16 12/17 13/2 16/20 16/22 18/18 22/4  
 22/18 26/6 28/8 28/22 30/6 30/7 30/7  
 31/4 31/4 31/5 32/2 32/4 32/12 34/19  
 34/22 36/2 36/2 40/2 40/12 40/13 42/17  
 43/16 43/17 43/25 44/14 44/24 45/4  
 45/11 46/9 46/12 47/23 48/5 50/7 51/17  
 57/13 66/15 67/16 74/4 76/24  
 area [37] 3/4 3/22 7/16 10/23 11/13 12/9  
 12/23 13/7 14/5 16/18 17/11 17/20 25/2  
 29/18 35/6 38/2 39/22 41/9 41/25 46/25  
 49/7 49/11 49/13 54/4 63/4 65/5 67/6  
 69/6 71/6 71/16 71/20 73/5 73/9 73/11  
 74/25 76/4 78/25  
 areas [2] 39/16 47/13  
 around [7] 3/10 8/16 12/19 23/10 24/7  
 34/11 55/2  
 array [2] 69/17 69/24  
 arrays [1] 25/16  
 as [74] 3/2 3/2 4/6 7/19 8/11 8/14 10/4  
 10/4 10/6 10/7 11/16 14/17 17/13 17/14  
 18/3 18/6 18/12 22/2 22/2 22/20 24/13  
 24/14 25/4 26/20 27/3 29/22 30/10 30/13  
 31/8 31/9 31/9 32/14 32/24 32/25 33/3  
 33/24 34/5 34/6 35/12 41/13 43/8 43/9  
 45/3 45/22 45/25 49/13 49/17 49/20  
 50/23 50/23 52/3 52/9 54/7 58/17 63/7  
 65/8 65/14 65/24 67/9 67/9 68/3 69/8  
 70/3 71/10 72/3 73/11 74/17 74/23 76/7

77/6 78/9 79/5 79/7 79/13  
 Ashley [3] 11/12 11/25 65/5  
 ask [2] 9/22 36/14  
 asking [3] 3/13 20/17 50/21  
 aspect [1] 78/19  
 asphalt [4] 8/25 9/15 16/5 40/19  
 associated [1] 56/6  
 Associates [1] 32/2  
 Association [3] 29/17 30/3 71/5  
 assuming [1] 40/21  
 attached [2] 54/24 63/25  
 attorney [3] 1/13 30/2 62/13  
 attractive [2] 33/18 40/20  
 audience [8] 11/5 17/4 24/19 29/11  
 48/25 53/23 58/7 59/24  
 automated [1] 50/8  
 avenue [8] 1/2 1/5 6/8 25/2 25/14 62/2  
 62/5 69/6  
 aware [3] 18/16 22/12 23/14  
 away [5] 14/3 19/23 20/2 40/22 50/21  
 awful [1] 28/14

**B**  
 back [10] 8/18 10/24 13/22 19/25 34/14  
 40/4 44/17 47/5 50/21 54/16  
 background [2] 30/9 55/7  
 backyard [11] 12/6 14/11 17/24 17/25  
 18/2 18/3 18/23 26/12 55/3 65/20 67/18  
 bad [1] 12/14  
 BAKER [14] 1/11 62/11 63/9 64/17  
 66/20 68/6 68/8 70/10 72/7 72/9 75/6  
 76/9 77/12 79/18  
 Barrett [3] 54/3 54/10 76/3  
 barrier [1] 52/23  
 based [3] 22/24 56/4 76/15  
 basement [2] 36/24 39/9  
 Basic [1] 35/9  
 basically [1] 28/4  
 basis [2] 28/16 44/2  
 Batavia [2] 1/25 62/25  
 bathroom [3] 42/8 42/9 44/10  
 be [175]  
 beautiful [4] 13/15 20/13 20/15 27/18  
 became [1] 30/15  
 because [27] 2/25 3/8 8/10 12/9 12/25  
 13/21 13/25 18/20 20/2 20/19 27/10  
 28/13 33/20 36/6 38/13 39/25 42/8 44/24  
 45/4 45/8 50/22 54/12 56/3 57/22 63/13  
 63/25 71/16  
 become [1] 38/9  
 been [22] 9/13 10/21 15/23 17/21 18/13  
 20/6 20/18 23/12 30/13 35/13 35/14  
 37/21 46/8 46/24 50/4 51/2 51/4 56/18  
 58/23 59/4 78/18 79/2  
 before [3] 1/2 51/4 62/2  
 behalf [1] 17/18  
 behind [10] 9/2 10/6 17/13 19/15 33/11  
 54/14 57/18 63/13 67/9 73/21  
 being [19] 10/4 11/7 17/6 18/4 19/7  
 22/10 24/21 29/13 31/7 32/15 45/3 46/4  
 49/3 53/25 57/23 58/9 60/2 71/18 74/6  
 believe [2] 4/15 53/10  
 below [2] 22/4 36/25  
 benefit [4] 45/22 46/2 46/5 74/2  
 best [5] 13/15 27/4 27/7 27/11 27/11  
 better [6] 17/24 19/24 20/20 21/10 34/20  
 55/10  
 between [8] 10/19 12/11 23/19 28/25  
 39/15 47/20 52/19 52/23  
 big [4] 13/23 13/25 24/7 36/7  
 bikes [2] 32/14 35/6  
 Bill [3] 17/17 42/24 43/6  
 bins [1] 47/6

bit [10] 19/7 21/15 26/8 35/14 40/10  
 44/23 46/18 55/24 56/22 57/16  
 Blossom [1] 54/17  
 blown [1] 35/17  
 Blvd [2] 29/18 71/6  
 BOARD [18] 1/2 2/4 11/3 29/25 31/12  
 31/16 37/17 38/3 46/7 48/20 51/2 51/4  
 51/5 51/9 62/2 62/18 72/5 72/6  
 boat [14] 29/19 31/7 31/8 32/7 32/8 34/8  
 40/2 40/5 40/7 40/9 41/7 71/7 71/19 72/2  
 bolted [1] 13/23  
 bordering [1] 56/7  
 borders [1] 56/4  
 bore [1] 46/10  
 borrow [2] 42/18 57/21  
 both [2] 31/8 31/13  
 bothered [1] 19/6  
 bottom [2] 26/5 26/22  
 bought [2] 10/22 50/19  
 bounded [1] 74/6  
 boy [1] 59/17  
 brand [2] 18/10 18/11  
 Brighton [11] 1/4 2/4 2/8 25/18 49/6  
 49/24 51/21 52/2 62/4 73/4 73/22  
 bring [3] 12/20 37/14 51/17  
 bringing [1] 47/24  
 brought [3] 19/4 47/3 47/5  
 buffer [2] 10/18 53/6  
 build [5] 12/5 13/16 36/19 50/12 53/11  
 builder [3] 17/23 19/24 22/19  
 building [60] 11/14 15/5 18/8 29/19  
 29/20 31/6 31/13 32/3 32/24 32/24 33/2  
 33/3 33/5 33/6 33/16 33/22 33/24 34/12  
 34/18 34/20 35/7 36/13 36/18 36/18 38/2  
 38/8 39/24 40/20 41/8 41/15 41/19 43/3  
 43/7 43/23 44/6 44/24 45/12 45/14 46/6  
 46/15 47/3 47/5 47/10 47/23 49/8 49/9  
 50/8 65/6 66/17 68/5 71/7 71/8 73/6 73/7  
 73/20 73/21 73/24 74/11 74/25 77/8  
 buildings [10] 30/12 30/16 30/19 30/22  
 31/3 33/19 36/11 40/18 48/5 48/8  
 builds [1] 22/20  
 built [1] 56/20  
 built-in [1] 56/20  
 bummed [1] 21/11  
 buses [1] 55/7  
 bushes [1] 21/7  
 business [11] 51/10 58/16 74/9 74/18  
 78/8 78/14 78/17 78/20 79/5 79/6

**C**  
 cabana [2] 13/21 13/23  
 cabinets [1] 56/20  
 California [1] 56/23  
 call [12] 2/3 2/10 5/14 7/11 64/18 66/23  
 68/10 70/12 72/11 75/9 77/13 79/20  
 calls [1] 45/2  
 came [1] 8/2  
 can [24] 5/10 15/12 15/19 15/19 19/2  
 19/6 19/9 21/15 24/5 24/6 26/4 29/2  
 33/15 39/19 46/18 49/18 55/2 56/8 56/11  
 57/8 63/19 65/16 69/19 76/17  
 can't [6] 18/24 23/21 28/5 28/22 36/17  
 36/19  
 canal [11] 30/9 32/15 32/16 33/9 34/7  
 34/7 34/12 34/23 41/10 41/13 46/23  
 CANDICE [3] 1/11 57/11 62/11  
 cannot [3] 25/22 74/2 74/10  
 canoe [1] 44/7  
 canoes [2] 43/9 43/14  
 careful [1] 43/2  
 carries [10] 5/15 7/12 64/19 66/24 68/11  
 70/13 72/12 75/10 77/14 79/21

<p><b>C</b></p> <p>carry [1] 47/10 cars [1] 55/7 case [2] 22/25 22/25 cases [2] 23/2 62/18 catch [1] 34/13 ceiling [1] 39/16 cement [1] 13/24 century [3] 56/17 56/20 57/10 certain [1] 10/23 certainly [1] 19/13 CERTIFICATE [2] 61/2 80/2 certify [2] 61/4 80/4 CHAD [7] 1/24 3/25 61/4 61/17 62/24 80/4 80/17 chain [2] 54/15 55/3 chain-link [1] 55/3 chain-linked [1] 54/15 CHAIRMAN [4] 1/8 2/7 29/24 62/8 change [5] 38/13 63/22 64/9 65/21 73/17 changes [4] 30/18 54/21 55/23 59/3 character [8] 55/23 63/22 65/21 69/22 71/22 73/17 76/21 78/22 check [1] 8/8 children [1] 12/19 choice [1] 57/2 CHRISTINE [2] 1/9 62/9 city [7] 55/4 55/6 55/15 56/4 56/7 76/19 76/23 civil [1] 40/25 clarify [1] 45/14 clarity [1] 6/17 clear [2] 15/2 46/22 cleared [1] 10/23 clearing [1] 53/10 clearly [1] 46/4 client [1] 25/9 close [1] 21/12 closed [8] 11/8 17/7 24/22 29/14 49/4 54/2 58/10 60/3 closely [1] 33/15 closer [2] 16/13 19/16 closest [1] 71/18 Clover [5] 7/16 7/23 9/8 63/4 63/17 club [6] 31/4 31/5 36/13 37/7 48/17 59/17 code [22] 7/19 11/16 17/14 18/12 25/4 29/22 36/16 36/20 44/23 45/2 45/9 45/12 49/10 54/7 63/7 65/8 67/9 69/8 71/10 71/24 73/8 76/7 combined [1] 50/20 come [11] 8/10 8/14 9/8 11/20 15/19 18/12 32/18 40/4 53/3 55/13 59/7 comes [1] 31/19 coming [5] 18/19 33/21 35/15 43/25 51/12 COMMENCING [2] 1/3 62/3 comments [3] 5/18 22/9 35/10 commitment [1] 42/23 community [17] 32/5 32/10 32/13 33/8 37/12 38/10 45/24 46/3 47/16 58/25 59/18 64/7 66/9 67/20 77/2 78/15 78/15 compact [2] 47/2 48/7 company [1] 50/10 competitive [1] 50/13 complained [1] 22/10 complaints [2] 58/24 78/19 completed [1] 62/19 completely [4] 25/17 26/6 27/19 56/19 compliance [5] 23/6 25/17 26/24 33/13 51/18 complimentary [1] 47/9</p>	<p>complimented [1] 56/25 comply [1] 31/15 concept [1] 38/24 concepts [1] 32/22 concern [1] 39/25 concerning [1] 9/2 concerns [1] 55/11 conditioner [1] 20/12 conditions [17] 64/11 64/19 66/11 66/24 67/23 68/11 70/2 70/13 71/25 72/12 74/14 74/20 75/10 77/5 77/14 79/3 79/21 conducted [1] 74/9 configuration [1] 70/5 conforming [1] 65/15 congestion [1] 64/3 conjunction [4] 30/17 31/9 58/15 78/7 connecting [2] 8/3 63/18 connection [1] 55/15 Connolly [1] 25/13 Conservation [1] 51/4 consider [3] 22/18 36/15 55/25 considered [4] 23/12 55/8 62/18 66/15 consists [1] 25/19 construct [1] 8/21 constructed [1] 22/11 construction [4] 18/11 49/9 73/7 74/22 consumption [1] 79/10 contextually [1] 33/3 continue [2] 56/21 74/10 contractor [1] 13/15 controlled [1] 79/13 conventional [1] 36/15 converted [1] 31/7 converter [1] 28/12 cooking [1] 42/10 corner [8] 21/5 35/5 37/11 37/25 42/2 54/12 56/4 76/13 CORRADO [14] 1/9 5/12 7/10 62/9 64/16 65/10 66/22 68/8 70/9 72/8 75/6 77/11 78/11 79/19 correct [11] 9/10 21/17 21/24 23/4 23/7 28/3 37/10 38/17 40/15 41/14 51/14 corrections [1] 2/17 Costello [8] 17/8 17/18 29/15 30/2 42/23 43/6 67/3 71/3 could [8] 4/8 13/4 22/24 24/3 30/12 35/16 35/24 35/25 couldn't [1] 35/17 county [4] 7/25 8/6 8/23 63/16 couple [6] 6/14 27/24 35/10 47/5 54/25 55/11 course [2] 50/5 50/7 Court [4] 1/24 1/24 62/24 62/24 create [3] 10/18 33/21 69/20 created [5] 4/22 64/5 66/7 74/17 79/2 creating [1] 57/20 creeping [1] 10/24 criteria [1] 32/22 crowded [1] 12/25 curb [1] 63/16 curious [1] 18/10 current [1] 50/14 Currently [1] 51/16 customer [1] 27/11 customers [1] 28/12 cut [4] 8/2 8/7 24/2 63/16 cutting [1] 53/7</p> <p><b>D</b></p> <p>DALE [12] 1/9 62/9 64/15 66/20 67/11 68/9 70/10 72/9 75/7 77/10 79/16 79/18 Daly [2] 17/18 43/6 Dated [2] 61/12 80/12</p>	<p>DAVID [2] 1/13 62/13 day [1] 43/18 daytime [1] 21/23 deal [2] 24/8 36/7 December [6] 2/8 5/17 5/18 6/2 7/9 7/12 decibels [2] 22/4 22/4 decided [1] 23/3 deciduous [1] 53/18 decision [2] 38/20 39/4 decisions [1] 62/19 deep [2] 36/19 36/20 definitely [2] 14/7 42/7 degree [1] 24/2 deli [2] 58/14 78/6 DENNIS [2] 1/8 62/8 density [3] 49/8 50/18 73/6 depicted [2] 68/3 74/23 depth [1] 47/7 describe [2] 15/12 56/8 described [22] 7/19 11/16 14/16 17/14 25/5 29/22 49/13 54/7 58/17 63/7 64/13 65/8 66/13 67/9 69/9 71/10 72/3 73/11 76/7 77/7 78/9 79/5 design [7] 32/2 46/5 56/18 56/24 69/16 69/19 70/3 designed [3] 27/3 40/6 45/10 designing [2] 32/21 43/3 desire [3] 30/16 67/14 67/17 desired [3] 63/20 65/17 76/13 detail [2] 31/19 37/17 details [1] 52/14 detriment [6] 45/23 45/25 55/23 63/23 65/22 73/18 detriments [1] 54/21 developer [2] 30/19 45/18 development [9] 17/9 22/20 29/16 30/15 41/9 45/9 45/17 67/4 71/4 Developments [3] 24/24 25/9 69/4 diagram [1] 19/12 dictated [1] 74/17 did [10] 9/22 13/18 28/7 30/19 31/11 36/14 46/6 55/11 61/4 80/4 didn't [10] 9/24 19/11 35/4 35/11 36/6 37/2 37/3 37/3 53/8 57/2 differ [2] 29/2 29/3 difference [1] 26/6 different [6] 25/16 28/25 29/5 45/8 47/14 54/25 difficult [3] 33/18 55/22 63/14 difficulty [6] 8/17 63/19 65/16 74/5 74/16 76/17 dining [6] 12/8 12/19 12/24 13/3 16/18 65/18 dinner [1] 12/15 direction [1] 38/5 directly [1] 57/18 disabilities [1] 63/15 disadvantage [1] 37/5 discuss [4] 21/15 23/15 24/13 56/13 discussion [1] 45/16 disposed [1] 79/7 distance [2] 8/7 8/17 DiSTEFANO [2] 1/14 62/14 district [5] 58/17 74/15 76/19 76/23 78/9 do [39] 2/15 2/17 10/8 12/2 12/5 12/7 13/13 14/8 16/17 16/18 19/22 20/21 21/14 22/8 23/17 24/3 24/5 24/6 26/24 26/25 27/10 27/19 27/20 32/8 35/19 37/13 37/19 38/21 48/21 50/12 51/24 53/9 55/13 58/25 59/15 59/15 59/17 61/4 80/4 dock [1] 51/23 documented [1] 4/13</p>
---	---	---

**D**  
does [5] 22/19 33/4 53/7 55/17 55/18  
doesn't [4] 3/2 15/23 33/24 34/3  
doing [2] 38/6 58/19  
DOLLINGER [2] 1/13 62/13  
don't [21] 3/2 6/18 15/5 18/16 19/14  
19/19 20/17 24/13 27/20 33/17 34/9 42/6  
43/21 47/14 48/10 52/13 54/13 55/21  
56/3 57/14 57/15  
done [3] 20/18 28/6 30/18  
door [4] 8/14 21/12 22/13 35/5  
Dorchester [1] 54/16  
down [13] 10/5 14/2 23/19 24/9 26/19  
30/17 31/2 35/15 36/25 40/23 48/7 53/3  
54/17  
Dr [4] 17/9 17/19 23/15 67/4  
drawing [3] 15/5 35/14 36/10  
drawings [1] 70/4  
Drive [11] 1/25 11/13 11/25 49/24 49/25  
50/17 52/7 52/8 62/25 65/5 73/23  
driveway [22] 7/17 8/3 8/4 8/10 8/11  
8/18 8/19 8/22 9/2 9/4 9/12 10/7 10/14  
10/19 63/5 63/13 63/17 63/18 63/25 64/2  
64/3 64/12  
driveways [4] 8/25 9/3 9/19 9/20  
driving [1] 38/21  
drop [1] 69/21  
drops [1] 8/12  
due [10] 26/2 26/5 54/11 54/18 55/6  
55/15 67/18 69/14 74/6 76/22  
dumpster [5] 46/16 46/25 47/15 51/21  
51/25  
during [1] 21/22

**E**  
each [3] 54/22 54/23 62/18  
ease [1] 64/3  
easement [8] 8/18 9/6 10/6 23/18 23/22  
23/25 63/18 64/2  
east [4] 25/16 31/4 31/5 35/8  
easy [1] 26/18  
eat [1] 14/4  
edge [3] 26/7 46/21 69/16  
EDITH [2] 1/24 62/24  
effect [3] 69/22 71/16 74/13  
effected [4] 64/8 66/10 67/21 77/3  
efficiency [3] 28/4 28/6 69/21  
egress [1] 41/9  
eight [3] 12/18 25/20 54/15  
either [1] 42/18  
electricity [2] 42/4 42/6  
element [1] 55/17  
elements [1] 32/25  
elevation [3] 8/13 15/6 69/24  
eliminates [1] 34/21  
ELMWOOD [4] 1/2 1/5 62/2 62/5  
elongated [1] 33/17  
else [5] 4/24 5/9 6/13 7/6 35/15  
emergency [3] 17/12 41/9 67/7  
employee [2] 44/13 44/15  
employees [3] 44/13 51/12 51/17  
enclosed [2] 46/20 47/8  
enclosure [3] 46/16 47/15 51/25  
encouraged [1] 31/17  
encroaching [1] 40/22  
end [5] 2/20 4/20 6/11 40/23 46/22  
Energy [3] 24/23 25/8 69/3  
engineer [1] 40/25  
Engineering [1] 49/16  
enjoy [1] 18/3  
enough [3] 26/23 40/2 40/22  
ensure [1] 23/5

entire [2] 24/9 32/5  
entitled [2] 61/6 80/6  
entrance [1] 76/15  
entry [1] 44/22  
environment [4] 32/16 33/4 34/4 34/20  
environmental [2] 41/11 74/14  
equipment [14] 18/5 18/6 18/23 20/5  
28/11 32/10 32/14 42/19 42/19 42/22  
43/8 51/11 51/11 52/14  
erecting [1] 57/4  
ESQ [4] 1/11 1/13 62/11 62/13  
essential [1] 78/22  
establish [1] 67/24  
even [5] 24/11 26/6 32/18 32/19 42/4  
evening [9] 11/21 11/22 17/16 17/17  
25/6 29/24 31/25 49/15 54/9  
events [1] 55/14  
ever [2] 18/15 36/14  
every [6] 12/14 12/22 48/2 48/6 48/6  
59/7  
everybody [1] 46/11  
everyone [2] 48/3 54/9  
everything [5] 15/17 18/11 38/6 38/8  
59/4  
evidence [1] 74/12  
exact [3] 15/15 35/12 37/24  
exactly [4] 23/22 35/3 37/21 40/16  
exceed [1] 79/8  
exception [1] 35/4  
excess [3] 2/24 3/5 4/8  
excuse [1] 30/25  
exist [1] 59/14  
existing [16] 8/18 9/19 9/20 10/16 11/14  
15/17 15/23 19/14 50/16 51/22 64/2 64/3  
65/7 66/2 69/14 73/21  
exists [1] 63/16  
expand [5] 13/4 50/22 52/5 53/3 53/7  
expanded [1] 74/9  
expanding [2] 52/9 74/16  
expansion [6] 49/12 50/15 51/24 65/17  
73/10 74/7  
expansions [2] 50/6 66/14  
expected [2] 63/24 65/23  
expire [1] 79/15  
explain [1] 31/21  
exposure [1] 69/14  
extend [6] 7/18 11/14 25/3 63/6 65/6  
69/7  
extending [1] 50/25  
extent [1] 45/9  
exterior [5] 15/13 15/22 32/23 39/5  
40/11  
External [1] 79/12  
extra [2] 7/4 14/21  
extremelv [2] 28/14 36/10

**F**  
faces [1] 27/15  
facility [4] 36/22 42/9 42/11 44/10  
facing [7] 27/5 27/9 27/14 27/15 27/22  
41/13 69/17  
fact [13] 6/7 18/9 20/18 46/2 63/11 65/12  
67/13 69/12 71/14 73/15 76/11 78/13  
78/16  
Fahy [3] 30/5 31/25 31/25  
fair [1] 27/23  
Fairhaven [2] 54/4 76/4  
fairly [1] 21/7  
fall [1] 74/8  
false [1] 34/10  
familiar [1] 30/6  
families [1] 48/4  
family [9] 8/16 12/15 45/5 49/5 56/6

63/15 65/19 73/3 76/24  
fan [1] 56/17  
far [7] 10/4 10/6 19/23 22/2 24/13 40/22  
50/23  
fashion [1] 16/8  
favor [1] 38/9  
fear [1] 55/17  
feasible [1] 20/22  
feature [1] 33/22  
features [3] 33/2 33/19 34/19  
feel [5] 20/20 33/16 33/17 34/22 55/17  
feet [35] 2/24 3/5 3/6 3/9 3/17 3/18 3/20  
3/22 3/23 4/7 4/8 8/24 8/24 9/8 14/14  
20/2 30/13 30/22 30/23 33/13 33/23 34/2  
34/3 34/7 36/16 36/19 36/19 36/23 38/16  
38/19 45/11 47/7 47/8 47/20 71/21  
felt [1] 18/7  
fence [31] 14/9 14/10 14/11 14/13 14/14  
20/8 23/10 23/21 24/6 24/9 44/21 54/5  
54/11 54/13 54/15 54/18 55/2 55/8 55/9  
55/17 55/18 55/20 56/7 56/8 56/12 57/10  
57/18 76/6 76/14 76/25 77/6  
fences [1] 23/25  
fencing [3] 3/4 4/6 66/4  
few [3] 4/25 38/13 44/19  
fifty [3] 34/3 36/19 53/5  
fifty-four [1] 34/3  
fifty-plus [1] 36/19  
file [16] 7/20 11/17 17/15 25/5 29/23  
49/14 54/8 58/18 63/8 65/9 67/10 69/9  
71/11 73/12 76/8 78/10  
final [1] 51/5  
findings [9] 6/7 63/11 65/12 67/13 69/12  
71/14 73/15 76/11 78/13  
fine [1] 36/6  
finished [2] 15/13 65/25  
first [9] 2/16 4/16 4/19 6/5 6/25 7/14  
8/24 13/4 33/16  
fit [2] 33/25 34/3  
fits [1] 34/20  
five [17] 12/9 26/4 30/12 30/13 30/21  
30/22 30/23 30/25 31/3 38/2 38/7 38/16  
38/19 38/19 46/8 47/8 47/20  
five-story [1] 38/2  
flashing [1] 26/3  
flat [3] 31/14 34/11 34/14  
floor [9] 16/15 34/8 35/4 36/24 39/6 39/8  
41/24 48/6 48/6  
flow [1] 64/9  
following [2] 62/18 62/19  
foods [2] 58/15 78/7  
foot [13] 2/23 3/4 3/7 16/13 16/14 30/24  
31/15 39/16 53/6 54/15 55/19 55/19  
76/14  
footage [4] 36/21 37/4 52/10 73/20  
FORBES [2] 1/24 62/24  
force [1] 38/21  
foregoing [2] 61/7 80/7  
forgetting [1] 52/5  
forth [4] 39/18 46/9 61/10 80/10  
forward [1] 59/9  
four [12] 14/18 14/22 14/23 26/22 28/8  
30/20 31/2 31/5 33/25 34/3 38/7 74/7  
four-season [3] 14/18 14/22 14/23  
four-story [1] 33/25  
fourteen [1] 12/21  
frequently [1] 44/7  
fried [2] 58/15 78/7  
friends [3] 8/16 12/21 63/15  
front [23] 2/23 3/4 3/11 3/22 4/7 5/20  
8/10 8/14 10/13 27/16 27/18 32/16 33/15  
49/12 50/2 52/2 54/5 63/17 73/10 74/6  
74/8 76/5 76/14

<p><b>F</b></p> <p>frontage [1] 30/10  fronting [2] 50/16 50/24  fronts [1] 51/21  ft [16] 7/18 11/14 11/15 11/15 29/20  29/21 54/5 54/6 63/6 65/6 65/7 65/7 71/8  71/9 76/6 76/7  full [2] 21/7 53/9  fuller [1] 21/6  fully [1] 26/24  function [3] 18/21 22/22 31/8  functional [1] 39/4  functionally [1] 17/25  fundraising [1] 59/15  furniture [1] 32/11  further [8] 14/3 21/15 26/20 44/16 61/7  73/23 74/8 80/7  future [2] 23/2 66/15</p>	<p>greater [2] 55/9 55/18  grocery [2] 58/16 78/8  Group [2] 17/18 43/6  grow [2] 21/9 59/18  growing [2] 13/8 65/19  growth [1] 51/10  guess [4] 2/15 23/9 28/15 43/22  guessing [1] 53/2  gutter [1] 16/7  guys [2] 20/20 59/10  guys' [1] 25/21</p>	<p>host [1] 12/15  hour [1] 21/18  hours [2] 21/20 79/8  house [46] 8/12 9/3 15/10 15/15 15/18  15/22 15/23 17/13 18/4 18/5 18/22 18/24  19/23 19/25 19/25 20/2 20/4 20/13 20/15  21/12 22/13 22/23 22/25 27/16 29/20  31/4 31/5 31/7 32/7 32/8 34/8 36/13 37/8  40/5 40/7 40/9 41/7 48/17 57/19 65/14  67/9 69/17 71/8 71/19 72/3 76/16  house/maintenance [2] 29/20 71/8  housed [1] 39/21  houses [1] 40/2  how [18] 2/25 6/18 8/20 15/12 18/12  27/2 27/2 28/16 33/4 43/4 44/3 46/19  46/19 46/22 47/17 47/18 48/11 58/19  huge [2] 27/18 36/8  hum [2] 20/10 52/25  HVAC [6] 18/5 18/6 18/23 19/14 19/15  67/15</p>
<p><b>G</b></p> <p>g-r-a-t-e [1] 5/7  gable [3] 16/3 33/20 69/18  garage [2] 8/13 66/5  garbage [1] 48/3  gated [1] 47/12  gatherings [1] 65/19  geez [1] 18/13  general [1] 32/9  generally [1] 27/13  generator [13] 17/12 17/20 18/2 18/5  18/9 21/8 22/10 22/24 67/7 67/15 67/18  67/25 68/2  generators [1] 18/19  gentlemen [1] 17/2  geographic [1] 54/19  geographical [1] 55/25  get [10] 26/2 27/3 27/6 27/12 28/6 28/7  35/5 39/19 43/22 51/25  girls [1] 12/12  give [3] 3/25 15/20 27/7  given [4] 18/13 20/6 70/4 74/24  glad [1] 46/13  glimpse [1] 34/13  go [11] 9/3 15/7 15/9 16/14 23/21 25/22  27/14 31/7 44/6 46/5 48/7  goes [9] 3/8 8/12 13/22 13/24 13/25  34/11 40/8 50/23 57/3  going [51] 6/5 9/8 12/5 13/5 14/2 14/6  14/14 14/17 14/18 14/23 15/7 15/8 15/9  15/9 15/10 15/13 16/22 18/18 19/10  20/20 27/7 27/12 30/4 31/6 32/7 34/25  35/6 36/12 37/8 37/9 38/5 39/12 39/14  39/17 42/8 43/5 43/15 43/18 43/23 43/25  44/3 44/18 46/10 48/10 48/11 51/5 51/24  52/13 53/3 53/10 56/9  Gold [4] 11/12 11/25 12/3 65/4  Goldman [1] 29/25  gonna [1] 10/25  good [16] 11/21 11/22 12/13 13/12 14/13  16/20 17/3 17/16 17/17 25/6 29/24 31/25  49/15 52/23 54/9 57/22  goods [1] 32/11  got [7] 7/25 13/25 20/16 24/7 37/7 49/16  52/18  grandchildren [1] 12/9  grant [1] 74/4  granted [2] 74/4 74/21  granting [4] 45/24 56/3 73/16 76/22  grat [1] 5/7  grate [1] 5/7  gravel [3] 9/9 9/11 63/18  Great [1] 51/14</p>	<p><b>H</b></p> <p>had [8] 13/20 37/20 37/20 38/11 50/5  54/23 54/23 55/12  half [4] 3/8 12/11 12/12 55/19  Hall [2] 1/4 62/4  hand [1] 26/14  happened [1] 55/12  happens [1] 41/3  happy [3] 9/16 28/13 51/9  hardship [4] 64/5 66/7 78/24 79/2  hardy [2] 40/18 40/18  has [21] 9/13 17/21 18/22 19/22 19/22  20/2 20/6 20/8 20/18 34/2 39/10 42/23  46/24 48/3 50/4 59/4 69/13 74/6 74/9  78/14 79/2  hasn't [1] 18/12  have [99]  having [8] 23/10 46/8 50/11 51/12 54/18  55/6 62/18 62/19  he [2] 18/16 40/25  health [5] 45/23 64/7 66/9 67/20 77/2  hearing [9] 11/7 17/6 24/21 29/13 44/21  49/3 53/25 58/9 60/2  Heat [2] 42/5 42/6  heated [2] 14/18 41/15  heating [1] 41/16  heavier [1] 52/14  height [33] 2/24 3/5 3/10 26/6 29/4 29/21  29/21 30/8 30/12 30/13 30/21 30/24  31/22 34/2 38/12 38/13 44/24 44/24  45/12 45/14 47/19 47/20 54/6 54/6 55/9  55/9 55/18 69/17 71/9 71/9 72/2 76/6  76/7  held [6] 1/2 45/16 57/7 61/6 62/2 80/6  Hello [1] 25/7  helpful [2] 35/13 36/10  Henrietta [6] 49/6 49/24 51/22 52/2 73/4  73/22  here [21] 8/5 11/18 12/16 12/17 13/16  14/17 17/18 38/4 38/6 40/25 41/3 42/24  43/2 44/2 44/22 49/20 50/12 50/20 51/20  52/21 53/9  hereby [2] 61/4 80/4  hereinbefore [2] 61/9 80/9  hide [1] 20/21  hides [1] 34/11  high [4] 13/22 13/25 14/15 15/10  higher [7] 28/6 34/7 39/19 55/8 55/14  57/16 71/17  highest [2] 30/23 30/23  Hill [3] 17/10 17/19 67/6  him [2] 10/10 57/21  hindsight [2] 6/11 6/12  holiday [1] 5/16  home [4] 3/15 63/14 63/14 63/21  homes [3] 56/23 64/4 76/24  honest [1] 33/18  hooked [1] 16/7  hope [1] 57/6  hopefully [3] 44/7 51/6 59/19  horizontal [1] 56/15</p>	<p><b>I</b></p> <p>I'd [3] 13/4 21/11 37/14  I'll [2] 31/22 57/21  I'm [25] 2/24 5/22 10/24 17/18 17/18  18/10 21/20 22/12 23/14 23/22 25/8  29/25 36/2 37/19 40/21 43/3 43/22 46/10  48/16 51/20 52/5 53/2 56/17 57/20 58/21  I've [6] 7/25 21/6 49/16 54/22 54/24  58/23  i-t-s [1] 6/16  Ideally [1] 19/21  identical [1] 12/12  image [1] 25/23  imagine [1] 35/16  impact [8] 18/7 18/25 34/6 38/4 41/10  67/25 74/13 76/25  impacted [1] 76/22  impacts [1] 34/22  important [2] 34/6 43/4  improved [2] 63/20 64/9  Inc [4] 24/24 29/17 69/4 71/5  incentive [2] 30/10 30/14  inch [1] 29/3  inches [5] 2/24 3/5 3/9 26/4 26/22  included [1] 66/15  increased [2] 73/20 74/18  Indian [1] 59/16  indicating [8] 13/16 33/11 33/12 35/5  37/11 50/20 52/21 53/6  individual [2] 18/22 22/23  individuals [1] 30/6  information [1] 62/18  infringing [1] 66/5  initially [1] 38/18  inside [3] 39/16 41/8 56/19  install [2] 26/21 27/5  installation [2] 25/15 69/13  installed [4] 17/21 25/25 26/2 26/4  instead [7] 19/15 30/20 30/20 36/8 50/11  56/14 64/8  instrument [2] 8/12 8/15  intent [2] 43/7 46/10  intention [1] 44/9  interest [1] 54/11  interested [1] 54/18  interesting [1] 57/2  intersection [1] 49/23  intimately [1] 32/4  inverter [1] 28/9  investment [1] 59/20  involved [1] 32/4  irregularly [1] 65/15</p>

**I**  
is [190]  
island [1] 12/24  
isn't [4] 10/7 26/23 40/5 54/21  
issue [3] 36/7 41/11 45/15  
it [171]  
it's [63] 2/22 3/15 3/18 6/8 6/15 6/18  
6/19 8/24 12/25 13/22 13/23 14/23 15/7  
15/8 15/8 15/9 15/10 15/23 16/24 17/25  
18/10 18/21 18/25 20/13 20/17 21/12  
22/2 22/23 22/25 24/7 26/21 26/21 28/20  
32/20 32/20 34/10 36/4 36/23 37/25  
38/12 38/16 39/3 39/12 39/14 41/8 41/12  
43/4 43/15 46/21 46/24 47/7 51/18 52/12  
52/14 55/21 55/21 56/18 56/20 56/24  
56/25 57/17 57/20 59/11  
items [2] 58/15 78/7  
its [5] 30/22 30/23 33/4 48/17 74/7  
itself [1] 46/15  
Ivanisevic [3] 11/11 15/21 65/3

**J**  
January [6] 1/2 1/4 2/4 6/2 6/24 79/15  
JEANNE [2] 1/9 62/9  
Jerry [6] 29/25 31/24 32/6 33/12 38/17  
48/24  
jewelry [5] 49/17 49/23 50/4 50/10 50/19  
Jewish [1] 3/15  
Jim [2] 30/5 31/25  
JK [4] 49/17 49/23 50/4 50/19  
Joanne [1] 49/17  
Joel [3] 54/3 54/10 76/3  
John [1] 49/17  
Joseph [4] 17/9 29/16 67/4 71/4  
JUDY [4] 1/10 2/18 36/5 62/10  
just [41] 3/25 4/4 4/9 6/14 6/17 6/18 6/20  
7/21 8/21 10/10 11/23 13/7 13/23 15/2  
15/20 16/2 16/14 16/16 18/10 19/20 26/2  
26/19 27/6 34/3 37/19 38/8 38/23 39/3  
41/3 42/3 44/11 44/15 46/18 55/5 55/12  
55/14 55/21 56/5 56/17 56/24 58/25

**K**  
Kathleen [2] 25/8 25/11  
Kaupp [3] 49/5 49/17 73/3  
kayak [1] 44/6  
kayaks [2] 39/18 43/9  
keep [3] 14/14 23/25 50/14  
keeping [3] 14/9 33/22 71/22  
keeps [1] 10/24  
kept [1] 59/4  
kids [1] 12/17  
kind [12] 21/8 25/23 26/3 33/17 43/4  
43/22 45/10 54/17 54/20 56/20 57/19  
59/11  
kitchen [3] 8/13 12/23 13/7  
knock [1] 28/9  
know [35] 6/18 12/16 12/23 12/24 13/23  
14/15 14/22 15/8 16/16 19/12 19/19 20/7  
20/17 21/7 22/9 35/24 36/12 37/5 38/4  
40/6 42/22 45/21 48/10 54/18 55/10  
55/12 55/16 55/17 55/24 56/22 57/3 57/5  
57/22 59/9 59/12  
knowing [2] 18/12 37/5

**L**  
l-e-d [1] 5/5  
labor [1] 32/8  
land [1] 52/11  
Landing [4] 58/12 58/21 59/16 78/4  
landscaped [2] 73/25 75/2  
landscaping [2] 51/2 52/19  
large [1] 40/2

larger [7] 23/10 33/20 35/14 35/21 35/24  
37/13 71/19  
last [9] 2/22 3/3 4/14 5/4 6/3 12/10 25/11  
31/6 51/2  
later [1] 40/4  
law [1] 25/21  
lawn [1] 32/11  
least [2] 35/11 35/17  
Leave [1] 4/10  
led [1] 5/4  
left [2] 41/13 53/6  
legal [3] 45/20 45/21 45/21  
LEIT [14] 1/11 62/11 63/9 64/17 66/21  
68/6 68/8 70/10 72/7 72/9 75/6 76/9  
77/12 79/18  
length [1] 45/16  
less [2] 31/14 38/5  
let [2] 2/12 9/22  
letter [5] 9/23 10/9 10/20 26/15 46/10  
level [6] 15/8 15/10 16/15 36/24 39/9  
39/10  
lieu [10] 17/13 17/21 18/3 29/21 49/10  
54/6 67/8 71/9 73/8 76/6  
light [1] 40/19  
lighting [1] 79/12  
like [46] 2/3 6/17 6/19 11/6 12/4 12/9  
12/15 12/21 12/21 13/12 14/5 14/20  
14/24 15/23 17/5 19/4 19/15 20/7 20/8  
20/19 21/4 21/6 21/7 24/20 29/11 34/25  
35/21 37/13 37/15 38/25 43/15 44/3  
44/20 46/22 49/2 51/13 53/24 55/7 56/9  
57/3 57/20 58/8 59/7 59/12 59/16 59/25  
limit [1] 30/19  
limited [1] 69/13  
line [38] 2/19 4/3 4/12 4/14 4/16 4/17  
4/19 4/21 5/2 5/4 5/6 5/6 6/3 6/5 6/7 6/10  
6/11 6/15 6/25 7/2 7/3 7/18 13/24 19/15  
19/16 19/20 20/4 24/10 36/15 49/6 49/24  
51/22 52/2 53/7 57/20 63/6 73/5 73/22  
lines [3] 2/22 35/9 57/13  
link [1] 55/3  
linked [1] 54/15  
little [17] 3/10 10/18 19/7 21/15 25/23  
26/2 26/8 26/19 28/23 35/14 37/6 40/10  
42/13 46/18 55/24 56/22 57/16  
live [1] 32/17  
lived [1] 21/11  
lives [1] 43/16  
living [1] 65/18  
LLC [6] 17/9 29/16 49/5 67/4 71/4 73/3  
loading [1] 51/23  
locate [1] 67/14  
located [28] 7/16 11/12 17/10 17/12  
22/23 24/25 29/17 37/21 37/21 49/6  
49/23 50/4 50/16 54/4 58/12 63/4 63/13  
65/4 67/5 67/8 67/16 67/18 69/5 71/5  
73/4 76/4 76/14 78/4  
location [7] 35/12 41/7 47/4 51/22 55/16  
70/5 74/19  
lock [2] 48/10 48/12  
loft [18] 30/11 32/3 33/2 33/5 33/19  
33/21 33/25 34/18 34/19 37/8 38/2 41/8  
47/3 47/12 47/23 48/5 48/8 71/16  
lofts [3] 36/12 38/7 40/17  
longer [3] 2/15 21/9 28/10  
look [10] 2/15 2/22 9/25 15/23 23/18  
34/25 37/14 37/15 56/9 59/9  
looked [2] 32/21 33/3  
looking [3] 20/16 32/23 46/22  
loops [1] 8/18  
lot [26] 7/18 13/24 19/10 19/16 20/20  
22/8 22/25 45/6 46/7 50/16 50/25 52/13  
53/2 54/12 54/14 56/2 56/3 56/7 58/25

59/15 59/15 59/17 63/6 65/15 74/16  
76/13  
lots [2] 18/18 50/20  
love [2] 13/10 13/11  
loves [2] 13/9 13/11  
low [1] 33/24  
lower [3] 28/16 28/18 71/23  
Lucas [1] 49/17

**M**  
machine [2] 61/5 80/5  
machinery [1] 52/13  
machines [1] 50/9  
made [15] 5/12 7/8 22/9 38/20 42/23  
45/18 62/19 63/9 65/10 67/11 69/10  
71/12 73/13 76/9 78/11  
main [6] 8/9 32/21 36/24 39/10 41/24  
52/2  
mainly [1] 33/20  
maintain [2] 27/21 65/19  
maintenance [7] 29/20 32/10 42/2 43/24  
47/23 48/13 71/8  
maintenance/manager's [1] 42/2  
major [1] 55/22  
make [11] 7/25 8/24 13/6 15/2 16/16  
16/25 20/20 26/24 30/20 33/6 57/17  
makes [2] 52/23 63/14  
making [1] 30/7  
manager's [3] 41/20 41/22 42/2  
manner [1] 65/25  
mansard [6] 31/13 31/14 34/9 34/10  
34/13 34/15  
manufacturer [1] 29/5  
manufacturers [1] 28/25  
manufacturing [4] 50/9 50/10 50/14  
52/12  
many [2] 20/2 34/19  
map [1] 8/12  
maps [1] 56/5  
Marathon [2] 41/6 49/16  
mark [1] 37/6  
mass [1] 33/4  
massing [1] 34/18  
match [4] 9/11 15/14 15/17 15/22  
matches [1] 65/25  
material [2] 40/16 40/17  
materials [3] 15/24 15/25 47/9  
Mathews [5] 17/9 17/19 18/2 23/15 67/5  
Matt [3] 41/2 41/5 49/16  
matter [3] 45/25 61/6 80/6  
mature [1] 53/8  
maximize [1] 27/10  
maximized [1] 28/4  
maximum [8] 22/5 29/21 30/21 49/10  
54/6 71/9 73/8 76/6  
may [11] 9/14 21/8 32/19 39/16 39/18  
42/21 49/19 51/9 57/8 64/3 64/8  
maybe [3] 12/14 42/19 52/9  
McGowan [2] 24/25 69/5  
McGowans [1] 25/10  
McQuaid [1] 40/7  
me [18] 8/2 9/22 10/6 13/10 13/16 13/19  
16/17 19/6 20/8 20/20 30/3 30/25 33/11  
41/4 49/17 55/18 56/25 57/7  
mean [6] 24/12 34/2 35/19 35/24 43/12  
57/15  
means [1] 57/2  
measured [1] 44/25  
measurements [1] 45/12  
mechanical [1] 67/15  
meet [4] 36/16 46/7 69/19 71/23  
meeting [1] 2/6  
Meleo [3] 7/15 7/23 63/3

<b>M</b>	<p>members [4] 2/13 11/3 29/25 63/15 mentioned [3] 10/5 37/20 49/20 Mercy [2] 40/7 59/16 Mercy/McQuaid [1] 40/7 method [1] 74/3 microwaves [1] 42/14 mid [3] 56/17 56/20 57/10 mid-century [3] 56/17 56/20 57/10 middle [2] 4/21 5/6 MIETZ [11] 1/8 62/8 64/16 66/20 68/8 69/10 70/11 72/8 75/7 77/10 79/18 might [5] 10/18 10/18 21/9 26/20 40/9 minimal [3] 18/7 18/25 63/12 minimize [1] 67/25 minimized [1] 27/25 minimum [4] 7/18 63/6 65/13 74/4 minor [1] 32/18 minute [1] 10/3 minutes [11] 2/15 2/16 2/16 5/10 5/12 5/15 5/17 5/18 7/9 7/12 44/19 missing [2] 5/20 5/24 mitigation [1] 21/16 modern [6] 56/18 56/20 56/24 57/4 57/9 57/10 modification [5] 49/11 49/21 50/2 50/17 73/9 modified [1] 28/22 module [1] 28/25 modules [11] 25/20 25/22 25/25 26/5 26/6 26/13 26/19 27/24 28/6 28/8 28/21 month [2] 51/3 51/7 months [1] 14/19 more [17] 12/8 13/6 13/7 22/19 23/6 31/14 31/19 34/17 35/17 37/14 38/24 48/12 51/11 52/11 53/7 57/4 71/21 most [2] 27/6 33/7 mostly [1] 54/11 motion [22] 5/10 5/11 5/14 7/7 7/8 7/11 63/9 64/18 65/10 66/23 67/11 68/10 69/10 70/12 71/12 72/11 73/13 75/9 76/9 77/13 78/11 79/20 mount [1] 26/3 mounted [2] 25/3 69/7 move [3] 20/19 26/19 50/11 moved [1] 24/7 moving [1] 38/9 Mr [13] 2/7 12/3 29/24 42/22 64/15 66/20 68/8 69/10 70/11 72/8 75/6 77/10 79/18 Ms [58] 5/12 5/13 7/8 7/10 63/9 64/14 64/15 64/15 64/16 64/16 64/16 65/10 66/19 66/20 66/20 66/21 66/21 66/22 67/11 68/6 68/7 68/7 68/8 68/8 68/9 70/8 70/9 70/9 70/9 70/10 70/10 71/12 72/7 72/8 72/8 72/9 72/9 72/10 73/13 75/5 75/6 75/6 75/7 75/7 75/7 76/9 77/9 77/10 77/10 77/11 77/11 77/11 78/11 79/17 79/17 79/18 79/18 79/18 much [12] 11/4 18/3 28/16 29/8 32/9 38/5 46/14 46/19 48/22 53/21 58/4 59/23 my [29] 8/13 9/2 12/8 12/14 12/15 12/16 12/18 13/8 13/11 13/14 13/18 15/21 17/17 25/7 29/25 31/25 39/25 49/15 54/9 54/11 54/13 54/20 55/4 55/15 56/4 57/23 58/20 61/8 80/8 myself [1] 12/18</p>	<p>namely [1] 65/17 nature [3] 32/15 35/7 43/10 near [1] 12/24 nearby [5] 54/22 63/23 65/22 73/18 79/13 necessarily [2] 29/4 52/17 necessary [8] 53/11 66/17 68/5 70/7 72/5 74/4 75/3 77/8 need [11] 3/10 12/8 18/14 19/13 32/9 32/20 48/15 48/17 50/9 50/13 50/22 needed [2] 8/3 32/12 needs [3] 32/13 69/19 74/18 negative [2] 34/22 69/22 neighbor [4] 10/6 19/17 20/8 21/4 neighbor's [1] 66/6 neighborhood [11] 58/24 59/13 63/23 65/22 69/23 71/22 73/18 74/14 76/21 78/16 78/23 neighborhoods [1] 38/14 neighboring [2] 66/4 66/5 neighbors [10] 9/23 13/19 26/14 26/15 54/13 54/22 54/22 55/5 57/13 57/23 net [1] 30/24 new [15] 1/2 1/5 1/25 9/18 18/11 18/11 49/21 51/25 61/13 62/2 62/5 62/25 63/25 73/24 80/13 newer [1] 51/11 news [2] 12/13 12/14 next [8] 13/19 20/8 20/15 21/12 22/13 51/7 51/23 67/15 nice [2] 25/23 35/16 night [1] 17/3 nine [2] 39/15 58/23 no [55] 4/9 9/19 9/24 10/10 13/20 24/7 24/11 26/16 28/10 28/24 35/11 35/23 35/23 35/23 37/2 37/19 38/15 38/15 38/21 39/2 39/6 39/8 41/10 42/7 42/12 42/13 42/15 43/20 44/12 45/25 48/2 48/7 48/15 51/16 55/4 57/15 58/24 59/3 59/4 63/19 63/22 65/16 65/21 65/22 68/7 69/19 69/22 74/12 76/17 76/20 76/24 77/3 78/16 78/18 79/9 noise [1] 79/12 nominal [1] 76/14 non [1] 65/15 non-conforming [1] 65/15 nonconforming [2] 58/16 78/8 none [8] 11/7 17/6 24/21 29/13 49/3 53/25 58/9 60/2 normal [2] 28/12 55/9 north [4] 35/8 58/12 58/20 78/4 Northwest [1] 56/23 not [65] 2/25 6/8 9/2 10/12 15/8 15/9 19/7 20/4 21/20 22/12 23/14 23/22 25/4 28/5 29/4 32/2 32/9 33/7 34/15 36/4 37/5 37/18 37/21 37/22 37/22 38/12 38/15 39/4 39/12 40/14 40/22 42/4 43/15 43/18 44/25 45/10 46/10 46/22 51/20 55/16 57/8 57/20 64/5 64/8 66/5 66/7 66/10 66/14 66/15 67/21 69/8 69/25 71/15 73/16 73/19 73/23 74/17 76/21 77/3 78/17 78/22 79/2 79/8 79/10 79/13 notes [2] 61/9 80/9 notice [1] 46/16 November [3] 2/16 5/11 5/15 now [15] 12/9 13/21 14/3 16/12 27/8 31/2 31/7 34/8 41/10 50/21 51/19 51/22 58/23 59/15 59/18 number [5] 3/25 7/4 27/17 27/17 30/19</p>	<p>obtained [6] 66/18 68/5 70/7 72/6 75/4 77/8 obviously [2] 21/13 40/22 occupied [1] 41/18 odors [1] 79/12 off [6] 9/5 9/8 24/2 46/21 53/7 57/14 office [3] 41/20 41/23 42/2 oh [4] 18/13 23/23 40/4 56/15 okay [51] 2/10 2/14 4/11 4/24 5/9 5/16 6/3 6/13 7/6 7/7 9/20 11/2 11/4 11/10 12/2 12/4 13/17 14/25 16/10 16/21 20/23 21/14 22/2 22/6 22/16 23/8 23/16 23/23 24/15 24/16 24/17 25/6 27/23 28/19 29/6 29/10 37/2 43/21 44/9 44/16 44/17 48/18 48/22 52/15 53/19 53/21 54/24 58/2 58/4 59/6 59/22 old [1] 12/13 oldest [1] 12/10 once [2] 35/17 47/3 one [27] 6/10 12/8 12/20 12/20 13/19 14/2 15/8 15/10 18/22 21/7 23/17 25/16 25/18 27/17 31/3 35/11 35/12 41/5 44/20 45/19 46/16 49/21 49/21 51/20 52/9 52/19 57/22 ongoing [1] 78/14 only [21] 6/10 15/7 15/8 15/10 26/12 26/21 32/2 32/9 33/7 39/5 42/5 44/5 53/10 64/12 66/12 68/2 70/3 72/2 74/21 77/6 79/4 open [6] 4/15 21/16 37/23 39/11 39/12 47/11 open-roof [1] 47/11 opened [1] 56/19 openings [1] 47/12 operation [4] 28/9 43/8 59/3 79/8 operational [1] 43/7 opinion [1] 34/4 opportunity [1] 22/18 opposed [1] 45/22 opposite [2] 34/15 35/2 option [8] 23/10 27/13 28/5 33/11 33/12 33/12 33/14 34/17 options [1] 33/10 order [6] 2/3 27/19 47/21 50/13 51/17 69/16 orientation [2] 27/2 69/14 original [1] 56/19 originally [2] 30/11 65/14 other [34] 9/7 16/12 19/11 20/4 22/7 23/8 24/16 26/9 29/6 30/6 30/18 36/9 38/21 40/17 43/17 45/7 45/13 46/8 46/12 47/15 47/16 48/19 51/20 52/19 53/19 55/5 57/16 58/2 63/19 64/9 65/16 69/19 74/3 76/17 others [1] 12/13 otherwise [1] 78/24 our [22] 12/5 12/23 18/12 21/7 25/9 25/15 26/15 27/11 28/12 29/5 31/12 33/11 33/16 34/4 34/17 36/16 38/4 38/20 38/21 40/25 45/24 53/9 out [24] 4/7 4/10 5/24 6/20 6/23 8/22 10/7 10/16 18/11 22/21 23/25 24/12 28/9 35/11 38/8 42/7 42/21 42/24 44/2 44/6 45/3 47/3 51/25 55/11 outline [1] 36/18 outside [4] 3/10 14/4 56/22 67/18 over [9] 10/3 12/10 13/2 26/13 31/20 34/13 40/7 50/5 50/7 overall [4] 45/8 45/14 45/15 45/17 overly [1] 34/15 overwhelmingly [1] 31/16 own [6] 38/20 38/21 42/20 42/22 48/3 58/20</p>
<b>N</b>	<p>name [14] 7/21 11/23 15/20 15/21 16/23 17/17 25/7 25/11 29/25 31/25 49/15 52/6 54/10 58/20</p>	<b>O</b>	<p>obliterate [1] 27/20 obtain [1] 44/6</p>

**O**  
owned [1] 43/17  
owner [16] 7/15 11/12 17/10 22/8 29/17  
49/5 54/3 58/11 63/3 65/4 67/5 71/5 73/3  
76/3 78/3 78/14  
owner's [1] 65/18  
owners [3] 24/25 42/16 69/5  
owns [1] 10/6

**P**  
p.m [3] 1/3 62/3 79/9  
Pacific [1] 56/23  
packet [2] 25/23 26/15  
page [20] 2/19 2/21 4/3 4/12 4/14 4/16  
4/17 4/19 4/21 5/2 5/4 5/6 6/3 6/5 6/7  
6/10 6/15 6/25 7/2 7/3  
pages [3] 5/20 5/20 5/23  
panel [1] 21/4  
panels [6] 20/9 21/9 25/3 28/4 69/7 70/6  
paper [2] 32/11 35/24  
parallel [1] 19/15  
parents [1] 12/16  
park [2] 8/15 40/7  
parked [1] 51/19  
parking [15] 47/13 49/13 50/2 50/15  
50/16 50/24 51/18 53/4 73/11 73/24 74/7  
74/16 74/18 74/23 74/25  
part [12] 30/10 30/14 43/24 45/5 45/8  
45/15 46/24 52/3 55/3 57/6 57/7 78/15  
partial [1] 36/25  
partially [1] 66/3  
particular [2] 18/22 66/14  
passion [1] 56/21  
past [1] 25/22  
path [4] 34/12 34/23 41/10 46/23  
pathway [1] 34/7  
pay [1] 14/21  
peak [10] 25/4 25/22 26/8 29/21 31/22  
44/25 45/3 46/3 69/8 71/9  
peaked [1] 44/25  
peeking [1] 26/13  
Pendleton [3] 17/10 17/19 67/5  
Penfield [1] 59/17  
people [6] 13/2 18/19 44/10 56/24 56/25  
57/8  
per [1] 79/7  
perceived [1] 57/18  
percent [2] 28/18 69/21  
percentage [2] 28/2 28/16  
perception [1] 57/23  
perimeter [1] 34/11  
permit [6] 18/8 58/13 58/22 59/2 78/5  
79/14  
permits [4] 66/17 68/5 75/3 77/8  
person [1] 26/12  
personal [2] 43/9 43/11  
physical [1] 74/13  
picked [2] 47/4 56/13  
picture [2] 19/4 56/10  
pictures [1] 54/25  
piece [2] 35/24 50/20  
pike [1] 35/15  
pines [3] 50/24 50/25 53/16  
pitched [3] 31/13 31/17 46/3  
Pittsford [1] 2/8  
pizza [2] 58/14 78/6  
place [4] 22/19 31/6 61/9 80/9  
placed [1] 4/20  
plan [12] 14/8 15/4 26/21 35/4 35/14  
35/22 37/6 37/13 37/20 37/22 46/25  
48/11  
plank [2] 40/18 56/15

planning [12] 10/12 18/13 31/12 31/16  
36/7 37/17 38/3 39/15 46/7 51/2 51/5  
72/5  
plans [19] 7/20 11/17 17/15 25/5 29/23  
46/15 49/14 53/9 54/8 58/17 63/8 65/9  
67/10 69/9 71/11 73/12 74/23 76/8 78/9  
plant [1] 24/12  
planting [1] 53/11  
plantings [3] 10/13 20/7 24/4  
play [1] 26/23  
please [4] 2/10 2/12 11/24 25/12  
plus [1] 36/19  
point [6] 9/15 31/11 44/25 55/11 57/17  
59/5  
pool [3] 14/10 32/11 65/20  
portable [1] 13/5  
positioned [1] 73/21  
positive [1] 38/5  
possessive [1] 6/16  
possible [2] 63/13 65/14  
possibly [1] 32/18  
post [2] 2/8 44/20  
posted [1] 44/21  
potential [1] 22/19  
potentially [1] 22/24  
pre [1] 64/2  
pre-existing [1] 64/2  
precedent [1] 56/2  
preexisting [2] 58/15 78/7  
prefer [2] 19/22 21/4  
preference [1] 57/9  
preferred [1] 33/11  
preliminary [1] 51/3  
premises [1] 79/10  
present [8] 1/8 2/13 8/11 31/12 62/8  
63/13 66/16 78/14  
presented [4] 37/16 62/18 68/4 72/4  
presenters [1] 30/4  
presently [1] 64/4  
pretty [9] 13/22 13/23 13/25 18/25 26/21  
28/20 28/25 33/15 52/23  
previously [3] 38/2 41/8 50/18  
primarily [4] 45/3 49/25 52/12 55/21  
primary [2] 30/4 45/21  
principally [4] 32/23 34/23 36/18 48/17  
prior [1] 78/21  
privacy [1] 76/18  
proactively [1] 23/3  
probably [9] 13/15 19/21 21/4 24/6 34/5  
34/14 35/16 48/12 57/2  
problem [5] 8/6 23/17 27/17 27/17 29/5  
problems [3] 13/20 26/17 57/14  
proceedings [4] 1/2 61/5 62/2 80/5  
process [2] 50/9 54/20  
processes [1] 50/14  
proclivity [1] 55/14  
produce [3] 63/20 65/17 73/17  
production [5] 27/7 27/11 27/25 28/7  
28/13  
project [5] 26/16 30/5 31/21 44/22 45/17  
promised [1] 41/4  
promoting [1] 32/16  
properly [2] 2/6 79/6  
properties [9] 9/5 9/5 23/19 52/24 55/24  
63/24 65/23 73/18 76/23  
property [37] 7/16 10/22 11/12 17/10  
23/11 24/2 24/10 24/25 29/17 35/12  
43/12 49/6 50/4 50/6 50/19 52/20 52/20  
52/22 54/3 54/19 55/4 55/4 58/12 63/4  
65/4 66/4 67/5 69/5 71/5 73/4 74/5 74/10  
74/19 76/4 76/20 78/4 79/11  
property's [1] 66/5  
proposal [1] 45/18

proposed [10] 25/15 28/11 36/11 46/4  
65/24 66/2 69/13 70/4 71/21 74/12  
proposing [2] 50/7 53/18  
protection [3] 55/19 56/6 76/18  
provide [3] 50/8 51/25 55/18  
provided [1] 19/13  
providing [1] 76/18  
provision [1] 45/10  
proximity [2] 55/15 71/18  
public [11] 11/7 17/6 24/21 29/13 33/8  
34/23 44/21 49/3 53/25 58/9 60/2  
purchased [1] 50/6  
purely [2] 38/20 39/5  
pursuant [3] 58/13 62/19 78/5  
put [7] 8/17 9/15 9/17 9/17 13/5 39/17  
54/25  
putting [1] 33/6

**Q**  
question [7] 14/16 26/11 27/8 28/8 38/23  
41/2 51/15  
questions [16] 10/8 11/2 16/20 22/7 23/8  
24/16 29/6 30/7 44/16 46/12 48/19 49/18  
51/8 53/19 57/11 58/2  
quick [4] 6/4 21/10 33/14 38/23  
quite [2] 2/25 38/13

**R**  
r-e-v-a-l [1] 6/19  
r-i-g-h-t [1] 2/20  
racks [2] 39/17 39/19  
radiation [1] 27/6  
rail [1] 26/3  
ranch [1] 56/18  
rational [1] 31/22  
read [5] 3/2 7/13 10/3 35/17 35/25  
ready [1] 7/13  
real [2] 32/9 32/20  
really [24] 2/25 5/25 13/10 13/25 15/4  
19/2 27/9 27/21 28/5 33/24 34/9 34/10  
36/12 36/17 37/4 37/5 37/21 38/9 45/10  
48/15 54/21 55/22 56/2 56/24  
rear [4] 17/13 17/22 18/14 67/8  
reason [10] 8/9 8/9 13/8 13/14 19/23  
32/6 44/5 44/22 49/25 52/3  
reasonably [1] 74/3  
reasons [3] 12/7 13/12 55/2  
recently [2] 55/12 55/13  
reconstruction [1] 22/17  
record [5] 2/12 7/22 8/21 11/24 15/2  
recreational [2] 32/14 32/17  
recycle [1] 47/6  
reduce [2] 38/11 38/13  
reduced [2] 30/22 38/6  
reduction [2] 30/24 30/25  
reevaluation [2] 6/19 6/22  
refrigerators [1] 42/13  
refuse [1] 47/25  
regard [3] 45/15 45/20 78/19  
regarding [9] 11/6 17/5 24/20 29/11  
45/17 49/2 53/24 58/8 59/25  
regardless [1] 57/20  
regards [1] 10/9  
regular [2] 16/2 44/2  
regulation [1] 19/22  
regulations [1] 25/18  
relate [2] 33/4 33/19  
relates [3] 27/2 32/25 33/3  
relative [1] 31/20  
relatively [2] 17/25 18/23  
relief [1] 74/5  
relocate [1] 51/24  
remain [1] 53/10

<p><b>R</b></p> <p>removed [4] 14/6 14/7 16/12 27/24  renew [2] 58/21 59/2  renewal [3] 58/12 78/4 78/20  rented [1] 43/18  replicate [1] 34/19  report [2] 61/5 80/5  Reported [2] 1/24 62/24  REPORTER [4] 1/24 61/2 62/24 80/2  REPORTING [2] 1/24 62/24  represent [1] 25/24  representing [2] 25/8 25/9  request [2] 17/20 77/4  requested [5] 31/22 63/12 65/13 73/16 76/12  requesting [4] 3/19 50/3 50/18 51/7  requests [1] 22/20  required [8] 7/19 11/16 14/12 17/14 62/19 63/7 65/8 67/9  requirement [2] 31/15 38/12  requirements [2] 22/2 51/18  Reserve [12] 29/16 29/18 30/3 30/11 30/18 32/4 32/17 33/8 43/8 43/17 71/4 71/6  residences' [2] 43/9 43/12  resident [1] 44/5  residential [11] 31/10 32/3 38/10 42/17 45/4 45/5 45/6 47/16 58/16 78/8 78/25  residents [8] 9/14 42/17 43/25 47/24 48/8 48/16 64/10 79/13  resides [1] 17/19  resolution [1] 51/6  respect [2] 70/5 73/19  respecting [1] 59/12  responsible [1] 47/24  rest [2] 8/25 9/4  result [6] 30/24 63/20 63/24 65/17 65/23 69/23  returns [1] 59/19  reval [2] 6/17 6/18  review [5] 33/16 51/3 56/5 62/19 72/6  reviewed [2] 21/25 32/22  revocable [4] 58/13 58/22 78/5 79/14  RG [1] 19/22  rich [1] 34/2  RICK [10] 1/14 2/6 7/13 21/25 41/17 48/21 53/20 57/21 58/3 62/14  rid [1] 28/7  ridge [1] 39/13  right [32] 2/20 3/21 4/4 4/12 8/20 13/16 13/19 13/21 13/24 14/3 15/3 15/7 16/14 16/19 17/2 20/16 22/7 23/19 24/6 26/14 27/8 33/15 39/20 41/7 41/10 48/14 51/19 51/22 51/23 52/22 57/25 58/5  right-hand [1] 26/14  risking [1] 22/17  RLB [2] 58/16 78/8  road [21] 6/8 7/25 8/7 10/13 10/19 18/24 27/16 41/9 41/12 49/7 49/24 52/6 54/4 54/17 57/16 58/12 58/21 73/5 73/22 76/4 78/4  roads [1] 74/7  robot [1] 20/16  robotic [1] 59/17  ROCHESTER [10] 1/2 1/5 13/9 13/16 61/13 62/2 62/5 76/19 76/23 80/13  roll [11] 2/11 5/14 7/11 64/18 66/23 68/10 70/12 72/11 75/9 77/13 79/20  rollout [1] 47/2  roof [52] 15/11 16/3 25/3 25/4 25/16 25/19 25/22 25/25 26/5 26/7 26/9 26/11 26/11 26/13 26/22 26/23 27/2 27/4 27/5</p>	<p>27/8 27/9 27/14 27/15 27/15 27/22 29/20 30/8 31/13 31/14 31/14 31/15 31/18 34/2 34/9 34/10 34/10 34/11 34/14 35/9 36/15 36/20 40/19 44/24 46/3 46/3 47/11 69/7 69/8 69/14 69/18 71/8 71/23  roofing [1] 15/24  roofs [1] 44/25  room [9] 12/9 12/19 12/24 13/2 13/3 13/6 14/18 16/18 19/20  rooms [1] 48/6  row [1] 50/25  rowing [1] 32/14  rule [1] 42/7  rules [1] 25/17  run [1] 24/9  running [1] 32/12  runs [4] 23/18 46/21 54/16 54/16</p> <p><b>S</b></p> <p>s-i-g-h-t [1] 5/3  safety [6] 45/23 55/11 64/7 66/9 67/20 77/2  said [10] 8/6 9/15 13/20 36/6 42/16 44/18 46/8 56/25 61/8 80/8  sale [2] 58/14 78/6  same [11] 15/24 15/24 15/25 16/15 18/6 35/3 35/9 47/10 57/8 57/19 59/5  saw [2] 37/6 56/11  say [14] 2/25 3/9 4/8 14/20 14/25 18/13 27/23 40/4 40/24 42/22 43/2 43/11 46/23 55/22  saying [2] 37/7 37/19  says [6] 3/3 6/17 13/10 14/17 25/21 26/16  scale [3] 33/4 34/17 36/11  scaled [2] 30/16 31/2  school [6] 54/14 55/6 55/6 76/19 76/19 76/23  SCHWARTZ [16] 1/10 5/13 7/8 62/10 64/14 64/16 66/19 66/21 68/7 70/9 71/12 72/10 75/5 75/7 77/10 79/17  scoot [1] 26/19  scout [1] 59/17  screen [3] 20/11 20/24 24/6  screened [2] 14/5 66/3  screening [2] 21/2 67/24  scrub [1] 53/8  sculls [3] 32/14 35/7 39/17  season [3] 14/18 14/22 14/23  seating [2] 12/25 79/9  second [6] 4/14 13/8 27/13 34/17 39/6 39/8  Seconded [10] 5/13 7/10 64/14 66/19 68/6 70/8 72/7 75/5 77/9 79/16  Secondly [3] 33/2 33/24 35/13  Secretary [2] 1/15 62/15  section [20] 7/17 9/18 11/13 25/2 29/18 39/18 41/25 47/2 49/7 52/5 54/5 58/14 63/5 65/5 69/6 71/6 73/5 76/5 78/6 79/7  Sections [2] 17/11 67/6  security [2] 56/6 76/18  see [26] 8/15 9/22 10/10 18/18 18/24 19/2 19/5 19/6 19/8 19/9 22/19 26/12 30/16 33/15 34/13 34/14 35/12 35/21 36/10 37/2 37/3 37/4 37/4 43/21 47/15 55/2  seeing [1] 59/10  seeking [2] 3/3 4/6  seems [1] 22/3  seen [1] 21/6  selected [1] 21/18  self [4] 64/5 66/7 74/17 79/2  self-created [4] 64/5 66/7 74/17 79/2</p>	<p>sense [3] 14/23 14/24 16/17  sentence [2] 2/20 4/22  SEQRA [1] 62/19  service [3] 1/24 46/19 62/24  session [1] 2/4  set [4] 46/9 58/3 61/9 80/9  setback [7] 7/18 11/15 11/15 37/24 63/6 65/7 65/8  sets [1] 2/14  setting [1] 56/2  seven [2] 34/7 47/20  seventy [5] 22/4 30/13 30/22 38/16 38/19  seventy-five [4] 30/13 30/22 38/16 38/19  seventy-two [1] 22/4  several [1] 50/6  sf [6] 49/8 49/9 49/10 73/6 73/7 73/8  shall [11] 66/18 67/24 68/5 70/7 72/6 75/3 77/8 79/8 79/9 79/12 79/14  shank [1] 40/18  shape [1] 14/13  shaped [1] 65/15  shared [2] 64/2 64/4  sharing [1] 46/14  she [2] 13/9 13/10  she's [1] 13/9  sheet [1] 36/8  shielding [1] 20/7  shingle [1] 40/19  shingles [1] 16/5  shoots [2] 48/5 48/7  shorthand [2] 61/5 80/5  should [10] 2/21 3/12 5/2 5/4 5/7 6/15 6/18 6/23 9/25 48/7  show [4] 2/12 23/13 35/4 53/8  shown [5] 8/11 33/10 33/10 37/16 37/24  shows [2] 53/6 56/23  shrubbery [1] 24/4  shrubs [1] 24/12  side [25] 11/15 11/15 16/13 17/13 17/21 17/24 18/4 18/4 18/19 18/24 19/16 19/25 20/4 26/14 27/25 34/15 35/2 46/17 47/12 57/16 65/7 65/7 67/8 67/16 76/15  sides [1] 74/7  siding [5] 15/14 15/15 15/25 40/18 47/9  sight [2] 57/13 57/19  sign [3] 35/11 44/21 44/21  signed [1] 57/13  significant [2] 28/20 54/21  Similar [1] 50/25  since [3] 50/5 69/24 78/20  single [6] 42/9 45/5 46/25 48/4 65/25 76/24  single-families [1] 48/4  single-family [2] 45/5 76/24  single-story [1] 65/25  single-use [1] 42/9  Sir [1] 15/19  sit [1] 12/19  site [19] 5/2 8/7 26/21 30/6 30/15 31/10 35/22 36/6 37/13 37/20 37/22 37/25 46/4 46/6 46/25 47/25 53/9 56/5 74/9  sited [2] 23/6 65/14  sits [2] 54/14 57/16  situation [1] 59/11  six [19] 2/24 3/5 3/6 3/9 3/17 3/18 3/20 3/22 3/23 4/7 8/24 8/24 9/8 12/17 14/14 30/11 30/20 30/25 76/13  sixteen [6] 12/21 31/15 33/13 33/22 36/16 45/11  sixty [3] 30/23 34/2 36/19  sixty-five [1] 30/23  sixty-three [1] 34/2  size [6] 18/6 28/22 30/17 38/7 67/19 70/5</p>
---	---	---

S  
sizes [1] 29/2  
sketch [1] 46/21  
slide [2] 13/3 13/5  
slider [3] 12/5 16/11 16/17  
slight [1] 55/16  
slightly [4] 45/7 51/19 55/14 69/17  
small [10] 17/25 18/23 24/6 28/11 41/25  
41/25 42/8 47/2 47/5 67/19  
smaller [1] 28/23  
SMITH [6] 1/24 61/4 61/17 62/24 80/4  
80/17  
so [127]  
solar [4] 25/3 27/6 69/7 69/13  
solution [1] 26/18  
solve [1] 29/5  
some [32] 2/17 5/19 9/13 10/23 12/12  
13/2 16/8 20/6 21/2 21/8 21/16 24/2 24/3  
24/4 28/2 30/16 30/16 30/17 39/10 40/19  
42/19 42/23 50/6 50/8 50/24 52/10 53/12  
53/13 55/25 56/24 56/25 57/8  
somebody [3] 8/16 22/13 43/18  
someday [1] 9/14  
someone [1] 11/18  
something [13] 2/23 10/18 20/21 21/5  
23/12 24/5 36/5 37/22 40/2 40/3 45/7  
47/20 57/4  
Sometimes [1] 29/2  
somewhat [1] 54/12  
somewhere [1] 24/4  
Son [5] 17/8 29/15 30/2 67/4 71/4  
sorry [2] 5/22 36/2  
sort [6] 4/16 19/20 20/7 20/8 21/16 44/3  
sought [1] 74/2  
sounds [2] 38/25 59/12  
south [8] 25/19 27/5 27/9 27/13 27/22  
27/25 35/8 69/24  
south-facing [3] 27/5 27/9 27/22  
Southern [3] 49/25 50/17 52/20  
space [11] 12/8 13/7 26/23 27/10 41/16  
50/8 50/11 50/12 50/13 65/18 74/11  
spaces [3] 50/15 51/17 74/23  
speak [13] 11/6 13/18 15/20 17/5 24/20  
29/11 41/2 41/5 46/18 49/2 53/24 58/8  
59/25  
speaking [2] 42/21 42/24  
specific [1] 21/14  
specifically [1] 45/2  
specifications [1] 68/3  
specs [1] 21/25  
spell [4] 6/18 6/20 6/23 16/22  
spelled [1] 6/19  
spoke [1] 13/19  
spouses [1] 12/17  
square [6] 36/21 36/23 37/3 37/4 52/10  
73/20  
squatty [1] 33/17  
Srbo [3] 11/11 15/21 65/3  
staff [1] 47/23  
stand [4] 17/12 17/20 32/24 67/7  
stand-alone [1] 32/24  
stand-by [3] 17/12 17/20 67/7  
standard [3] 28/22 29/2 45/21  
standards [3] 45/20 45/22 46/9  
staple [1] 58/24  
state [2] 7/21 11/23  
stay [3] 14/15 36/20 50/13  
stenographic [2] 61/8 80/8  
stentotype [2] 61/5 80/5  
Steven [3] 11/12 11/25 65/4  
still [2] 26/7 58/23  
stone [6] 9/3 9/4 10/23 10/24 40/19 47/10

storage [13] 31/9 31/9 32/10 32/11 32/20  
32/20 35/6 36/25 38/24 39/10 39/17  
40/20 43/8  
store [4] 32/18 35/6 42/19 42/22  
stored [2] 43/12 47/4  
stories [6] 30/12 30/20 30/25 31/2 38/7  
38/20  
story [5] 33/25 38/2 52/9 52/10 65/25  
street [7] 7/16 7/24 9/9 21/7 63/4 63/17  
69/25  
streetscape [1] 73/22  
stretching [1] 40/9  
string [1] 28/12  
structurally [1] 52/16  
structure [12] 14/4 30/8 31/8 31/20  
45/13 47/10 47/11 66/2 66/12 71/18  
71/19 71/21  
structures [3] 20/3 45/2 45/4  
stuff [2] 14/5 18/14  
submitted [2] 70/4 74/23  
substantial [5] 63/23 65/22 71/15 73/19  
76/12  
substantially [1] 71/23  
such [6] 22/20 27/3 32/14 38/5 74/9  
76/13  
suggested [1] 36/7  
suggestion [1] 37/23  
summary [1] 33/14  
summertime [1] 44/7  
Sunberg [3] 58/11 58/20 78/3  
Sunday [2] 12/14 12/22  
sunroom [11] 12/5 13/3 13/6 13/10  
13/11 13/11 14/3 14/17 14/22 14/23  
14/25  
sunrooms [1] 13/9  
support [5] 46/7 52/17 58/25 59/16  
78/16  
sure [10] 2/25 16/25 19/18 21/20 23/22  
27/4 33/6 43/5 43/6 48/16  
surface [1] 26/7  
surfaces [1] 69/15  
surrounding [1] 55/23  
survey [1] 8/15  
sustainable [4] 24/23 25/8 69/3 78/18  
switched [1] 4/5  
switching [1] 29/4  
symmetrical [1] 35/8  
system [3] 16/8 69/16 69/20  
systems [1] 27/3

T  
t-o [1] 6/6  
table [1] 12/19  
tables [1] 13/5  
take [4] 2/22 4/7 10/2 21/9  
taken [4] 10/4 14/2 61/9 80/9  
taking [5] 10/7 10/16 22/18 38/8 52/11  
talk [2] 9/13 26/25  
talked [2] 15/15 54/22  
talking [6] 10/20 20/25 25/19 25/24 36/2  
36/3  
talks [1] 19/7  
tall [2] 47/17 47/18  
taller [2] 3/10 56/7  
tallest [1] 71/19  
taxes [1] 14/21  
tear [1] 24/12  
tell [1] 26/20  
temporary [4] 58/13 58/21 78/5 79/14  
ten [5] 12/18 30/23 39/16 50/15 74/22  
term [2] 40/9 57/21  
terminology [1] 40/6  
testified [1] 73/24

testimony [8] 64/13 66/13 68/4 70/4 72/4  
74/24 77/7 79/5  
testing [2] 21/19 21/21  
than [12] 14/3 17/24 19/25 31/19 34/8  
37/14 38/21 45/13 51/12 55/9 55/19  
71/22  
Thank [21] 11/4 11/9 11/20 17/2 17/3  
24/17 24/18 29/7 29/8 29/9 31/24 46/14  
48/18 48/22 48/23 53/21 53/22 58/4 58/5  
59/22 59/23  
Thanks [1] 48/24  
that [241]  
that's [51] 3/11 3/24 4/23 5/8 6/9 7/5 8/4  
9/10 10/19 12/17 13/12 13/22 14/2 14/6  
14/22 16/11 19/21 19/23 20/3 20/22  
22/22 23/12 24/7 27/7 27/8 27/8 27/12  
27/17 27/21 28/5 37/18 37/22 38/12 40/7  
40/15 41/2 41/9 50/16 50/17 51/11 51/14  
52/3 52/13 53/7 53/10 55/3 55/8 56/4  
56/7 57/4 57/17  
their [12] 12/17 12/20 18/3 20/11 24/2  
42/19 42/22 43/12 44/6 47/24 48/3 50/10  
them [12] 12/20 13/20 19/20 24/12 26/7  
26/19 30/20 33/14 33/15 51/9 54/23  
59/15  
theme [1] 9/4  
themselves [3] 28/21 32/19 47/24  
then [18] 3/8 4/8 8/2 13/4 13/6 13/8  
13/11 18/19 27/24 31/22 37/8 39/10  
42/17 47/4 47/5 47/11 50/19 55/5  
there [96]  
there's [32] 2/21 2/23 9/5 12/11 12/18  
21/8 23/9 23/18 25/23 32/13 35/11 35/15  
37/8 37/8 39/6 39/8 39/9 41/10 46/5  
46/16 49/18 50/24 51/8 54/15 55/5 55/14  
55/16 55/24 55/25 56/3 56/10 57/23  
therefore [1] 66/5  
Theresa [2] 24/24 69/4  
these [5] 27/3 36/11 38/7 40/12 40/13  
they [30] 3/13 3/19 8/2 8/8 9/14 9/16  
13/20 13/20 21/18 26/2 26/4 26/16 26/16  
28/22 29/2 29/3 32/19 41/4 49/18 50/7  
50/9 50/12 50/13 50/22 54/24 55/12 57/2  
57/15 57/18 74/10  
they'd [1] 44/8  
they're [9] 12/12 13/5 23/5 25/25 28/24  
28/25 33/10 40/14 43/18  
they've [4] 22/9 22/10 50/5 50/6  
thing [6] 19/11 20/16 21/8 36/9 51/20  
52/19  
things [8] 32/12 32/15 32/19 35/7 40/8  
43/9 51/12 55/7  
think [39] 2/21 3/2 3/7 3/11 7/3 8/24  
9/25 10/19 18/16 18/21 19/9 19/19 21/3  
22/22 22/25 32/6 33/17 34/5 34/17 36/6  
36/10 38/4 38/9 38/11 38/12 40/5 40/9  
41/16 45/20 46/2 47/14 47/19 54/12  
55/13 55/13 56/3 56/24 57/3 57/21  
thinking [1] 10/17  
third [1] 13/14  
thirdly [3] 33/5 34/5 34/21  
thirty [2] 28/17 69/21  
this [97]  
those [6] 30/16 32/17 34/9 34/22 40/8  
53/17  
thought [9] 17/23 18/13 18/15 19/24  
20/6 37/20 45/5 52/4 54/20  
thousand [1] 36/23  
three [25] 2/23 2/24 3/4 3/5 3/7 3/8 3/9  
4/8 12/10 12/10 12/11 12/11 12/17 12/18  
31/4 32/21 34/2 36/11 36/23 55/19 55/19  
64/4 71/21 74/6 74/6  
through [2] 8/4 16/16

<b>T</b>	<p>throughout [1] 9/4  thus [1] 74/7  tie [1] 8/25  tight [1] 26/21  Tim [2] 17/9 67/4  time [6] 50/5 50/7 57/3 58/6 61/9 80/9  times [1] 19/10  Timothy [2] 24/24 69/4  today [2] 13/20 58/21  told [1] 8/2  Tomlinson [3] 41/2 41/5 49/16  TOMPKINS [13] 1/10 62/10 64/15  66/21 68/7 70/8 70/10 72/9 73/13 75/8  77/9 77/11 79/17  tonight [4] 25/18 30/3 49/22 51/7  too [6] 12/25 14/16 28/11 32/9 36/9  55/16  top [7] 15/9 25/21 26/4 26/13 26/22  57/22 69/18  totally [1] 57/7  touched [2] 32/7 33/12  towards [2] 2/19 4/20  town [17] 1/4 1/13 8/2 38/3 45/16 45/19  49/6 49/24 51/22 52/2 56/5 62/4 62/13  66/17 73/4 73/22 78/19  townhomes [1] 48/4  toys [1] 32/17  traditional [1] 45/11  traffic [2] 43/22 64/9  transcript [2] 61/7 80/7  transcription [2] 61/8 80/8  trash [3] 48/5 48/6 48/8  tree [3] 27/18 27/20 53/7  trees [7] 10/4 10/7 10/16 53/8 53/12  53/13 53/18  tried [2] 27/21 57/17  troops [1] 59/18  true [3] 40/12 61/7 80/7  trues [1] 40/13  truss [1] 36/20  try [3] 23/25 28/7 59/18  trying [5] 12/2 43/22 50/11 52/5 59/21  turn [3] 31/20 42/21 42/24  twelve [4] 14/19 16/13 16/14 47/7  twenty [4] 6/11 6/12 47/8 71/21  twenty-five [1] 47/8  twenty-three [1] 71/21  twin [1] 12/12  twins [1] 12/12  two [22] 2/14 2/22 9/5 9/14 10/22 12/7  12/11 12/12 13/12 20/8 21/4 22/4 23/19  25/15 27/17 32/22 33/10 49/20 52/10  52/24 59/7 78/20  two-panel [1] 21/4  type [5] 21/2 33/22 57/9 57/9 57/10  types [1] 40/8  typically [4] 12/20 40/2 44/24 45/4</p>	<p>unit [1] 67/5  units [3] 32/3 42/17 43/15  until [1] 47/4  up [24] 10/23 11/20 13/9 13/24 13/25  15/7 15/9 15/19 19/20 24/4 28/7 31/23  33/6 35/17 37/14 41/9 44/18 46/22 47/4  50/14 52/11 55/13 56/19 57/16  upon [11] 5/14 7/11 28/15 64/18 66/23  68/10 70/12 72/11 75/9 77/13 79/20  uproot [1] 20/19  upwards [1] 30/13  us [7] 31/16 31/17 34/18 37/18 46/5  46/12 51/24  use [18] 14/4 22/23 28/10 28/10 32/18  42/9 42/18 42/23 44/10 47/22 48/12  48/16 48/17 58/13 58/22 78/5 79/4 79/14  used [5] 14/18 43/5 43/16 44/4 57/21  uses [1] 31/10  using [3] 40/17 44/8 48/8  usually [1] 29/3  utilities [1] 22/18</p>	<p>wasn't [4] 14/20 18/15 19/15 38/15  waste [1] 79/6  watch [1] 56/22  water [3] 42/4 42/4 42/7  way [4] 12/25 30/9 39/11 54/17  we [91]  we'll [4] 2/15 25/18 47/10 53/11  we're [27] 3/9 14/14 25/24 27/12 32/7  33/6 35/6 38/5 38/6 38/7 38/8 39/15  39/17 40/17 42/8 44/22 45/9 49/20 50/2  50/18 50/21 51/6 53/10 53/18 58/24  58/25 59/21  we've [9] 13/25 27/21 28/3 28/6 33/10  38/6 38/20 51/2 51/3  week [1] 47/3  weight [1] 40/19  welcome [1] 37/14  welfare [5] 45/23 64/7 66/9 67/20 77/2  well [18] 4/6 8/23 12/4 13/19 19/2 21/14  22/4 23/9 31/9 33/25 36/9 39/12 43/8  48/2 49/18 52/3 73/25 75/2  went [1] 50/21  were [14] 3/2 3/13 3/19 5/19 5/20 20/20  24/9 30/11 30/18 32/22 38/16 54/24  62/19 78/16  weren't [1] 33/21  west [7] 27/14 27/15 31/3 35/8 37/11  54/13 55/4  west-facing [2] 27/14 27/15  westerly [2] 37/11 37/25  Western [4] 49/24 52/7 52/8 73/23  Westland [3] 24/25 25/13 69/5  what [29] 3/11 3/12 3/19 3/25 4/4 5/22  8/21 10/20 12/2 12/4 15/4 16/17 19/21  20/25 24/14 25/24 34/10 34/25 36/14  37/6 40/8 42/3 43/2 43/22 43/22 46/22  51/23 56/8 57/17  what's [4] 6/21 36/12 36/21 53/11  whatever [1] 42/18  when [9] 7/13 8/2 10/22 13/2 14/25  25/25 31/19 43/11 53/3  where [21] 4/17 7/18 9/17 11/15 12/5  20/3 22/11 22/18 22/23 22/24 25/4 27/12  31/6 32/7 35/6 39/17 41/7 57/17 63/6  65/7 69/8  whether [1] 48/10  which [30] 3/14 12/24 13/4 14/14 21/9  25/9 25/16 27/9 27/9 27/20 30/12 30/21  31/3 31/7 31/14 33/11 35/15 39/10 39/10  45/10 46/3 46/4 46/6 46/9 49/25 57/2  63/14 64/4 67/15 76/14  white [1] 16/6  who [8] 17/19 24/20 29/11 30/5 30/6  48/25 58/8 59/25  whomever [1] 43/17  why [12] 3/24 19/14 19/19 20/3 21/9  24/13 27/9 27/21 32/8 44/22 55/8 56/13  wide [1] 36/19  width [2] 29/4 47/8  wife [3] 12/14 13/8 13/11  wife's [2] 12/16 12/18  will [84]  windows [4] 15/25 40/11 40/12 40/13  within [8] 34/20 36/20 39/21 39/24 45/11  57/13 74/8 79/9  without [5] 52/11 59/14 69/21 74/10  74/16  won't [5] 10/15 27/14 32/8 41/18 52/16  wonder [1] 10/21  Woodcrest [2] 1/25 62/25  wooden [1] 76/13  word [14] 2/20 4/12 4/14 4/16 4/17 4/19  4/20 4/21 5/2 5/4 6/4 6/5 6/6 6/11</p>
<b>U</b>	<p>ugly [1] 20/16  Uhm [2] 20/10 52/25  Uhm-hum [2] 20/10 52/25  unacceptable [2] 63/22 65/21  under [5] 8/13 44/23 45/11 45/12 51/19  understand [8] 9/7 19/12 19/13 19/14  34/9 40/8 43/24 57/8  undesirable [1] 73/17  unfortunate [1] 20/17  unfortunately [4] 26/18 28/5 28/24 29/3  unique [4] 54/12 57/5 59/11 78/24  uniqueness [2] 54/19 55/25</p>	<p>vacant [1] 54/14  variance [53] 3/3 7/17 8/3 8/4 11/13  17/11 17/20 25/2 29/18 30/8 31/17 45/24  49/7 49/11 49/21 49/21 50/2 50/17 50/19  50/21 51/6 54/4 63/5 63/12 63/12 63/25  64/12 65/5 65/13 65/13 65/24 66/12 67/6  67/22 68/2 69/6 69/24 70/3 71/6 71/15  72/2 73/5 73/9 73/16 74/17 76/5 76/12  76/22 77/4 77/6 78/20 78/22 79/4  variances [5] 22/20 49/20 74/4 74/12  74/21  vault [1] 39/18  vegetation [1] 21/2  vener [1] 40/19  versus [1] 57/19  very [13] 11/4 21/12 21/12 29/8 33/18  38/25 40/20 41/25 46/14 48/22 53/21  58/4 59/23  viable [3] 69/16 69/20 78/15  view [9] 29/18 31/11 34/16 34/22 45/24  50/23 52/3 66/6 71/6  viewshed [3] 33/7 34/6 34/24  Vinyl [1] 16/6  virtually [1] 12/22  visibility [1] 54/23  visible [3] 46/23 47/13 69/25  visual [3] 52/23 67/25 76/24</p>	<p>w</p> <p>w-h-e-r-e [1] 4/18  walk [2] 8/16 16/16  walk-through [1] 16/16  walking [2] 8/17 33/9  wall [2] 57/20 57/23  want [23] 2/25 4/4 8/9 9/14 10/2 13/2  14/22 15/2 16/12 16/17 26/25 27/10  27/10 27/11 27/14 27/20 31/20 42/6 43/2  43/3 43/5 50/12 54/18  wanted [7] 8/17 9/16 10/10 16/25 31/16  33/6 36/14  wanting [1] 18/19  wants [2] 12/20 40/25  was [50] 2/6 2/7 3/14 3/17 3/19 7/3 10/23  18/7 18/8 18/16 18/23 19/12 21/3 28/11  30/16 30/21 30/22 31/2 31/6 33/7 33/18  36/6 36/7 37/5 37/6 37/16 38/2 38/15  38/21 39/25 40/4 41/8 44/18 44/21 45/15  45/16 45/18 45/18 45/19 45/19 50/18  52/4 52/9 54/18 54/20 54/20 57/18 57/22  66/7 66/13</p>

**W**  
wording [1] 23/24  
words [3] 9/8 16/12 43/17  
work [2] 27/14 28/12  
workable [1] 36/8  
would [67] 2/3 2/10 6/20 8/20 8/21 9/3  
9/11 9/15 10/21 11/5 12/4 13/3 13/6  
13/10 13/12 14/20 17/5 17/23 19/24  
20/19 20/20 20/25 21/4 21/16 24/2 24/20  
26/12 27/16 27/19 27/23 27/25 28/8  
28/10 28/11 28/13 28/15 28/16 28/17  
29/11 30/12 31/15 35/13 35/14 35/16  
35/16 35/21 36/8 36/10 40/3 40/24 42/17  
44/5 44/20 46/13 47/15 47/19 47/19  
48/25 51/9 53/24 55/9 55/22 58/8 59/25  
71/23 74/8 78/17  
wouldn't [14] 8/6 10/5 14/21 16/16  
16/17 18/2 19/20 28/13 29/5 40/3 41/4  
56/2 57/7 59/14  
wrap [2] 31/23 44/18  
WRIGHT [13] 1/10 62/10 64/15 66/21  
68/7 70/8 70/10 72/9 73/13 75/8 77/9  
77/11 79/17  
writing [1] 35/18  
written [3] 37/3 37/4 72/3  
wrong [1] 3/8

**Y**  
yard [27] 2/23 3/4 3/22 4/7 17/13 17/13  
17/21 17/22 17/24 18/4 18/14 18/19  
27/18 49/13 50/2 52/2 54/5 54/16 67/8  
67/8 67/16 67/19 73/11 74/8 76/5 76/14  
76/15  
yards [1] 74/6  
yeah [22] 3/17 6/24 9/13 9/21 10/2 10/24  
14/14 19/9 21/3 22/3 24/5 35/20 37/18  
38/18 39/23 40/4 51/14 52/8 53/15 56/11  
59/14 59/21  
year [2] 12/13 14/19  
years [5] 10/22 12/10 58/23 59/8 78/20  
yes [60] 2/7 10/15 14/7 14/21 16/4 16/6  
16/9 19/3 22/15 40/24 41/24 47/14 56/16  
64/15 64/15 64/16 64/16 64/16 64/17  
66/20 66/20 66/21 66/21 66/21 66/22  
68/7 68/8 68/8 68/8 68/9 70/9 70/9 70/10  
70/10 70/11 70/11 72/8 72/8 72/9 72/9  
72/10 72/10 75/6 75/6 75/7 75/7 75/7  
75/8 77/10 77/10 77/11 77/11 77/11  
77/12 79/17 79/17 79/18 79/18 79/18  
79/19  
yet [1] 22/14  
YORK [8] 1/2 1/5 1/25 61/13 62/2 62/5  
62/25 80/13  
you [130]  
you'd [3] 19/4 37/13 37/15  
you'll [5] 14/8 34/12 34/13 34/14 48/12  
you're [16] 4/2 7/13 9/8 10/12 10/17  
19/10 20/17 37/7 40/21 40/22 41/13  
44/17 48/10 48/11 57/4 59/12  
you've [2] 20/16 37/7  
your [18] 7/21 8/11 9/23 11/23 11/23  
15/20 16/23 25/11 25/21 27/13 33/13  
36/20 36/21 37/6 48/13 57/12 58/5 59/19  
Yup [3] 23/20 26/10 28/17

**Z**  
zoning [7] 1/2 2/4 30/10 30/14 33/13  
38/3 62/2