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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON OCTOBER 5, 2016, COMMENCING AT APPROXIMATELY 7:15 P.M.

October 5, 2016  
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.  
MICHAEL JONES, JR.

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

Reported By: LAUREN E. SHERWOOD  
Edith Forbes Court Reporting  
21 Woodcrest Drive  
Batavia, New York 14020

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           MR. MIETZ: I'd like to call to order the  
3           October session of the Brighton Zoning Board of  
4           Appeals.

5           Rick, was the meeting properly advertised?

6           MR. DISTEFANO: Yes, Mr. Chairman. It was  
7           advertised in the Brighton Pittsford Post on September  
8           29th, 2016.

9           MR. MIETZ: Okay. You may call the roll.

10          MR. DISTEFANO: Let the record show all  
11          members are present.

12          MR. MIETZ: Okay. Just for the record,  
13          members are aware, Mike Jones is our newest board  
14          member. This is his first night.

15          Thank you for being willing to serve. We  
16          appreciate it.

17          Okay. So when you're ready, please read  
18          the first application.

19          8A-05-16 Application of Alice Kanack, owner of  
20          property located at 2077 South Clinton Avenue, for  
21          Area Variances from Section 205-6 to allow a building  
22          addition to 1) extend 25 ft. into the 50 ft. front  
23          setback required by code, and 2) extend 17 ft. into  
24          the 30 ft. side setback required by code. All as  
25          described on application and plans on file. TABLED AT

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2           THE AUGUST 3, 2016 MEETING - PUBLIC HEARING REMAINS  
3           OPEN.

4                   MR. MARTIN: Hello. My name is Ed Martin.  
5           I'm an engineer with LandTech. I'm here tonight  
6           representing Alice Kanack and her application before  
7           you.

8                   Alice is in attendance this evening in the  
9           event that you have a question that's best answered by  
10          her. I've also brought along with me Joe O'Donnell,  
11          the project architect.

12                   You'll note in the resubmission to you  
13          that there is a rendering included from the  
14          Havens Road, or the south elevation of the addition.

15                   When we last met with you, the board asked  
16          us to look into the idea of perhaps sharing access  
17          with our west adjoiner, which is RG&E. We contacted  
18          them, as you might imagine, and as we thought then,  
19          they are not inclined to engage in that kind of  
20          agreement. They need to have uninhibited access to  
21          their properties at all times.

22                   The board asked us to look to screen that  
23          west adjoining property more. You'll note in the  
24          resubmission that we've included additional plannings,  
25          particularly along the west property line.

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2           You'll also note some additional  
3           landscaping along the Havens Road, or the south  
4           elevation of the building.

5           When we last met, my footprint on the site  
6           plan did not accurately reflect the architectural  
7           plans. We've updated that. You'll note there's an  
8           addition to the east along the south side of the  
9           building. It's called a greenroom. That was missing  
10          on my plan last time. We've added that, and that is  
11          reflected both in the site plan and the renderings  
12          that you have.

13          And those were the issues that were up in  
14          the air at the last time we presented to you.

15          I trust you've had opportunity to review  
16          the materials, and we would be happy to answer any  
17          questions you have.

18          MR. MIETZ: Would you just walk through  
19          the landscaping changes, highlight the changes for the  
20          record?

21          MR. MARTIN: Sure. So to orient you,  
22          north is to your right on the plan. So what we've  
23          done is added eight evergreens along the west side of  
24          the building.

25          There's additional foundation plantings

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2           along the Havens Road or south side, and the same  
3           landscaping that was there before -- there's  
4           evergreens along the north property line, and then  
5           some hardwoods along the South Clinton Ave. frontage.

6           MR. MIETZ:   Would you just talk about the  
7           height?   Because this is kind of microscopic here,  
8           so...

9           MR. MARTIN:   So at maturity the evergreens  
10          are going to be in the order of 20 to 30 feet tall at  
11          most.   Those were the evergreens on the north and the  
12          west side.

13          The foundation plannings along the south  
14          side are more, you know, kind of waist to chest height  
15          at most.   And we tried to reflect that in the  
16          rendering provided by Joe in the application materials  
17          there.

18          MS. SCHWARTZ:   And what size will they be  
19          when you put them in?

20          MR. MARTIN:   Generally, the evergreens are  
21          about 4 feet tall when they're planted.   And just a  
22          rough rule of thumb, about a foot a year, general  
23          growth you can expect.

24          MS. TOMPKINS WRIGHT:   The windows along  
25          the Havens Road, are those faux windows?   It's been a

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2       couple months, but I thought I remember you saying  
3       that it had to be -- you couldn't have windows for  
4       acoustic purposes.

5           MS. KANACK:   Just on the hall part --

6           MR. MIETZ:   Ma'am, you're going to have to  
7       come up and give your name and address if you're going  
8       to speak.  If you'd just --

9           MS. KANACK:   Oh.  I'm sorry.

10          MR. MIETZ:   Just for the record.  Just  
11       your name and address, please.

12          MS. KANACK:   Alice Kanack, and I live at  
13       145 Park Lane.

14          MR. MIETZ:   Thank you.

15          MS. KANACK:   So, yeah, the plan was for  
16       the concert hall piece of that to have faux windows  
17       because we need it to be dark in that room.  And then  
18       the greenroom which is adjoining can have windows in  
19       it.  I think that's reflected in the drawings.

20          MS. TOMPKINS WRIGHT:  And just again, this  
21       was two months ago, so I'm just trying to remember.  
22       The dimensions of the performance hall were dictated  
23       by...

24          MS. KANACK:   The size of the stage in  
25       particular.  And that's what is affecting this.

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2           That's why we're asking for this. Because currently,  
3           we cannot use our space because there's not enough  
4           room to fit the orchestra on the stage. Because they  
5           go out, you know. So there has to be a certain amount  
6           of width, and that's the width.

7                         We're looking for actually the width of  
8           where we currently rehearse, which is our main big  
9           room on the floor, which is our -- basically where our  
10          audience would normally sit. So we're basically  
11          transferring that size to the stage so that we are  
12          actually able to sit there and have our concerts  
13          there.

14                        MR. MIETZ: Go ahead.

15                        MR. DISTEFANO: Yeah. Just for the  
16          record, I know the architectural review board did  
17          review this, but could you just explain what  
18          transpired with the architectural review board in  
19          regards to the architectural style and elevations?

20                        MR. O'DONNELL: Yeah. Joe O'Donnell,  
21          architect of record, address 150 Versailles Road,  
22          Rochester, New York.

23                        We did meet the architectural review board  
24          in there two meetings ago, and they are very  
25          enthusiastic about the project and the look of the

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2     building.

3           They basically came back with a couple  
4     comments. One was to next time bring in the actual  
5     materials that we were going to use, and to present an  
6     elevation along South Goodman Street -- I'm sorry --  
7     South Clinton, which we've prepared for them at the  
8     next meeting.

9           The one thing that Alice wanted to keep  
10    was the architectural character of the original  
11    building. It was designed as a photographer's studio  
12    back in the 60s I think it was, and it represents sort  
13    of the red schoolhouse look. So that was the theme we  
14    were looking to keep.

15          And the architectural review board at that  
16    time when they tabled us because of the South Clinton  
17    elevation, I'd asked them if it would be okay if they  
18    passed on their preliminary approval that they had  
19    seen -- they saw no concerns or issues with the  
20    design -- to the zoning board so it didn't hang us up  
21    here. And I believe Paul and Rick discussed that in  
22    the office.

23          MR. MIETZ: Okay. And they understand the  
24    latest submission to them as that greenroom erected  
25    and all that stuff?

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2           MR. O'DONNELL: They saw that elevation.  
3 That was prepared for them. You guys were the only  
4 ones who hadn't seen that. The only elevation they  
5 hadn't seen was South Clinton, which we've done and  
6 prepared for them.

7           MR. DISTEFANO: And you're planning to go  
8 back to the architectural review board?

9           MR. O'DONNELL: Yeah. They've requested  
10 that all four sides of the building be drawn up in two  
11 dimensions in addition to the three-dimensional  
12 renderings, which we're doing now.

13           So we're prepared to go to them next,  
14 which will then allow us to go to the planning board  
15 for final -- hopefully final approval in conjunction  
16 with tonight and ARB's approval.

17           MR. MARTIN: And the deadline for that is  
18 set for next Tuesday.

19           MR. MIETZ: All right. Any other  
20 questions for these folks? You good?

21           Okay. Thank you very much.

22           MR. O'DONNELL: Thank you.

23           MR. MARTIN: Thank you.

24

25   10A-01-16 Application of 1850 SWR, LLC, owners of

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2           property located at 1850 South Winton Road, for  
3           modification of a sign variance (11A-11-15) requesting  
4           relocation and change of color of the approved sign.  
5           All as described on application and plans on file.

6                   MS. MICHAELS: Good evening. My name is  
7           Stacy Michaels, and I'm representing Genesee Regional  
8           Bank in this matter.

9                   We do have three variances in place, so we  
10          have come back to request the change in the paint  
11          color.

12                   Once the signs went up, we started hearing  
13          feedback that nobody could see them. "I almost missed  
14          your building." "Where are you?" Lots of things like  
15          that.

16                   When you buy a new building and put up new  
17          signage, sometimes there are unexpected feedback from  
18          our clients.

19                   So we do believe that painting the signs  
20          white as opposed to the green will certainly help with  
21          the contrast and make the signs a little bit more  
22          visible to people who are traveling both ways on  
23          Winton Road.

24                   The other concern that we have is the one  
25          sign now that all the trees have grown in. When we

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2       put the sign up originally, when we came to the board  
3       originally, it was winter, so we had a much clearer  
4       line of sight for everything. And, you know, we had a  
5       traffic study and a, you know, professional sign  
6       company give us some advice.

7           And now, however, once the trees have  
8       grown in, we find that nobody can see the one sign  
9       that we have. That certainly creates a problem,  
10      particularly as you're coming off 590 right near the  
11      diverging diamond. We're located right at that corner  
12      there. So when people come off, there's literally no  
13      signage that they can see.

14          And, you know, I myself have tried to look  
15      for that sign, and I find myself with my head over my  
16      shoulder or, you know, trying to look through the  
17      trees and to see if that's -- you know, if that's what  
18      I'm looking for.

19          And unfortunately, I think that creates a  
20      tremendous distraction for drivers. And, you know,  
21      the diverging diamond is still relatively new to folks  
22      anyway, so it tends to be a very difficult position.

23          If we were a traditional bank where all  
24      you have is your traditional bank customers, that may  
25      not be such an issue. Everybody would eventually

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2           figure out where we are. But we have a very large  
3           residential mortgage group, so those folks are highly  
4           transactional, and we take about 100 to 140  
5           applications a month, about 80 percent of those at  
6           that location.

7                        So we have people coming in who do not  
8           deal with the bank on a regular basis, and that may be  
9           their only visit there, so we certainly don't want to  
10          make it a difficult, confusing, or even a dangerous  
11          situation for them to try to find us.

12                       MS. SCHWARTZ: Are you going to paint the  
13          other sign as well?

14                       MS. MICHAELS: Correct.

15                       MR. MIETZ: And still the halo lighting  
16          on --

17                       MS. MICHAELS: Still the --

18                       MR. MIETZ: But they're going to --

19                       MS. MICHAELS: Just paint it white.

20                       MR. MIETZ: -- appear white during the  
21          day.

22                       MS. MICHAELS: Correct.

23                       MR. MIETZ: Okay?

24                       MS. DALE: And there's just the two signs  
25          on the building?

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2                   MS. MICHAELS: Just the two signs on the  
3 building.

4                   MR. MIETZ: Any other questions at all?  
5 Okay. Thank you very much.

6                   MS. MICHAELS: Thank you so much.

7  
8 10A-02-16 Application of Michael and Jean Radler,  
9 owners of property located at 249 Valley Road, for an  
10 Area Variance from Sections 203-16A(4) and 203-2.1B(3)  
11 to allow a detached garage to be constructed 3 ft.  
12 from a side lot line in lieu of the minimum 5 ft.  
13 required by code. All as described on application and  
14 plans on file.

15                   MR. RADLER: Good evening. Michael  
16 Radler, 249 Valley Road. My wife, Jean.

17                   MR. MIETZ: I'm sorry. I didn't hear you.

18                   MR. RADLER: Michael Radler, 249 Valley  
19 Road, and my wife, Jean Radler.

20                   Mr. Chairman, is it okay to put up some  
21 photos?

22                   MR. MIETZ: Absolutely.

23                   MR. RADLER: Okay. Thank you.

24                   MR. MIETZ: If you like, and you think it  
25 will help the board members, you can pass them around.

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2           You can do that too. Whatever you think is fine.

3                     It will be hard for us to see them from  
4           there.

5                     MR. RADLER: Okay. We are currently  
6           requesting to demolish a detached garage that was  
7           built in the 1940s that is in significant disrepair,  
8           as you can see from the photographs.

9                     Currently, the north foundation is  
10          3.65 feet from the property line.

11                    The new design is going to be a garage and  
12          a half as opposed to a single-car garage. And with  
13          the new overhang that will be required, it would be an  
14          additional foot over, so it's actually 2.65 that will  
15          be going towards our neighbors. So we're actually  
16          requesting a 2.5-foot variance.

17                    MR. MIETZ: So excuse me for one second.

18                    So, Rick, that's different than what --

19                    MR. DISTEFANO: That's different than  
20          what's requested, right. So it would be modified to  
21          2.5 feet in lieu of 3 feet as requested.

22                    MR. RADLER: Yeah. With the new structure  
23          and garage and a half, there's an overhang. And if  
24          you'll see on your designs on the back, there's no  
25          current overhang with the current garage. That's the

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2           difference.

3                       So the change that we're requesting is not  
4           going to change the character of the neighborhood or  
5           impact any of the surrounding areas. It will actually  
6           improve it since this garage is in such poor shape.

7                       And currently, the plan is for the north  
8           structure to be -- the north foundation will stay the  
9           same.

10                      So as the pictures are going around, the  
11           biggest problem that we have as you will see is,  
12           currently, the detached garage is a straight shot from  
13           the street right up the driveway.

14                      If we have to go over the required 5 feet,  
15           plus what's going to be part of the foundation, it's  
16           going to be almost 8 or 9 feet before the start of the  
17           garage. So to go up our driveway, we would have to  
18           make a sharp left-hand turn and then pull into the  
19           garage. And you'll see from the pictures, the  
20           distance between the house and the garage would not  
21           support that.

22                      MR. MIETZ:   Okay.

23                      MR. RADLER:   I also -- I'd like to  
24           submit -- I have a letter from my neighbor who is on  
25           the north side fully supporting the demolition of our

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2           old garage and building of a brand new garage. If I  
3           can submit that.

4           MR. TOMPKINS WRIGHT: And this is from the  
5           neighbor that would be affected by that side?

6           MR. RADLER: That's correct. The neighbor  
7           at 241 Valley Drive.

8           MR. MIETZ: I'm sure they will appreciate  
9           the upgrade.

10          MR. RADLER: Yes, definitely.

11          MS. CORRADO: The new garage, how will it  
12          be finished?

13          MR. RADLER: Vinyl siding.

14          MS. CORRADO: And will that match the  
15          existing house?

16          MR. RADLER: The existing house is  
17          actually cedar. But our neighbor's house is vinyl  
18          siding, so it will match theirs.

19          MR. MIETZ: What about the color?

20          MR. RADLER: The color will be the same as  
21          the house.

22          MR. MIETZ: Okay. So it's not going to be  
23          the color that it is.

24          MR. RADLER: No. It will be the blue.  
25          Our house is also blue.

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2                   MR. MIETZ:   Yeah.   Different -- a little  
3 different shading.

4                   MR. RADLER:   Yeah.

5                   MR. MIETZ:   But it is going to match the  
6 cedar on the house?

7                   MR. RADLER:   Yes, it will.   Yes, it will.

8                   MS. DALE:   Do you have to take down any  
9 trees to do this?

10                  MR. RADLER:   No.   That's actually -- the  
11 way we're doing it, if you look on the pictures right  
12 behind it, there's an 80-year-old maple tree that we  
13 want to make sure stays intact.   But if we were to  
14 move it back, we would have to take the tree down, and  
15 I really don't want to have to do that.

16                  MR. MIETZ:   And just to confirm, the extra  
17 half of the foot that this going out into the setback,  
18 it's just the overhang.   It's not the wall the  
19 garage --

20                  MR. RADLER:   Correct.   It's the overhang.  
21 The foundation wall is going to stay right where it  
22 currently is.

23                  But if you look at your drawings, the  
24 current detached garage does not have any overhang.  
25 It doesn't even have a gutter.

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1                   BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2                   MR. MIETZ: Very good. Okay. Any other  
3 questions?

4                   Okay. Thank you very much.

5                   MR. RADLER: All right. Thank you,  
6 Mr. Chairman.

7  
8                   10A-03-16 Application of Bell Atlantic Mobile of  
9 Rochester L.P. (Verizon Wireless), lessee, and Metro  
10 Professional Building Partnership, owner of property  
11 located at 85 Metro Park, for an Area Variance from  
12 Section 207-42C(1)(b) to allow for telecommunication  
13 support equipment to be located outside, adjacent to  
14 the building, where not allowed by code. All as  
15 described on application and plans on file.

16                   MR. BRENNAN: Good evening, ladies and  
17 gentlemen of the board. My name is Daniel Brennan  
18 from the law firm Nixon Peabody. I represent the  
19 applicant tonight.

20                   We have an application before this board  
21 for an area variance. We're proposing to build a  
22 small cell cantenna, wireless telecommunications  
23 facility on the top of the building 85 Metro Park in  
24 the town of Brighton.

25                   This is going to be a fairly small

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2       antenna, not particularly visible from the street or  
3       from any other buildings. And we require an area  
4       variance because some of our equipment that will be  
5       located on the side of the building is outside. It's  
6       not enclosed as it's required to be by code.

7           So we're in the IG district. This is a  
8       commercial district, and telecommunications facilities  
9       are permitted use in this district.

10           So again, we're just looking for an area  
11       variance for some of the exterior equipment.

12           Our antenna will be located on a 6 by 6  
13       leased area on the roof of the building. The  
14       structure itself, the antenna itself, is approximately  
15       28, almost 29 inches tall. It's about 15 inches in  
16       diameter.

17           The antenna sits on top of a stand. In  
18       total it's about 7 1/2 feet tall above the height of  
19       the roof. The overall height along with the building  
20       is approximately 20 feet.

21           There's also some HVAC equipment, by the  
22       way, that's on the roof that stands fairly close to  
23       where we're proposing to put this antenna; and it's a  
24       little bit shorter than the antenna, but it's sort of  
25       similar, and that sort of goes with the area variance

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2 standards that we need to prove that this is in  
3 keeping with the character of the area. There's  
4 already equipment on the top of the roof in this  
5 building in the commercial district, so I don't think  
6 we have any problems with that.

7           We're proposing to put some screening  
8 around the equipment that will be on the side of the  
9 building. I believe there are -- there's seven  
10 additional trees planting, basically in a semicircular  
11 formation around the equipment on the wall, that will  
12 screen this equipment from view really just from the  
13 parking lot which sits behind the building. I don't  
14 think that it would be really visible from really  
15 anyone else.

16           And as you can see in some of the  
17 photographs we've shown, there's actually already some  
18 fully grown or mature trees in the area that screen  
19 the back of the building anyways.

20           The lease area on the ground is  
21 approximately 6 by 8 feet. The equipment box that  
22 we're talking about here is approximately 4 feet tall  
23 by 2 feet wide. It's smaller than your refrigerator  
24 at home. So we're not talking about a large piece of  
25 equipment here. It's fairly small.

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2           I think we've -- I won't go through all  
3 the legal standards here, but they're a little bit  
4 different. As a telecommunications carrier, Verizon  
5 Wireless, under New York State law, is considered to  
6 be a public utility. We have sort of a different  
7 legal standard which we've laid out in our  
8 application.

9           I don't want to bore you or the public  
10 with going through that again, but of course I'm here  
11 to answer any questions that you may have. I  
12 understand that this board has entertained  
13 applications like this before.

14           So other than that, unless there are any  
15 questions from the board...

16           MS. SCHWARTZ: You gave us lot of detail  
17 that is to me more a planning board issue as far as  
18 the data on the equipment and so on, but that's not  
19 the issue. The issue is -- I didn't see it, and I may  
20 have missed it, but nowhere did I really find why you  
21 can't, you know, follow code. You give all these  
22 reasons why it's permissible and so on and so forth,  
23 but you never really say, "We cannot comply with the  
24 code because..."

25           So could you explain why you can't comply

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2       with the code?

3           MR. BRENNAN: Well, my understanding is  
4       that the code would essentially require us to build an  
5       extension onto the building, which is something that  
6       would be -- to enclose the equipment, which is  
7       something that would be prohibitively expensive. It  
8       may not go well with the existing architectural design  
9       of the building.

10           And this is -- what we're proposing really  
11       is typical for what we find with these small cell  
12       sites.

13           So, you know, this is not an antenna  
14       that's going to reach lots of customers. It's  
15       designed really to focus on the immediate area hotspot  
16       to relieve some of the towers or other macro sites  
17       that we have in the area, and so there's really not  
18       the resources to put an additional structure on the  
19       building. This is pretty standard.

20           And what we've done here is we've made  
21       sure to completely screen off the equipment from view.  
22       And the only view that there would be of the equipment  
23       is from the parking lot. And then on top of that we  
24       have seven additional trees that we're going to put  
25       around to make sure it's not going to -- it's not

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2           going to have a negative visual impact. In fact, I  
3           think it would probably have a beneficial impact by  
4           creating some additional trees.

5           MS. DALE: So there's no room inside the  
6           building to put this equipment?

7           MR. BRENNAN: I don't believe that the  
8           equipment can go inside the building. I think that it  
9           needs to be outside, because we do have tenants inside  
10          the building right now.

11          MS. DALE: I just didn't know if there's  
12          like a telephone closet or facilities, environmental,  
13          engineering-type rooms that -- I think that goes along  
14          with Judy's question about, you know, why do you need  
15          this variance. And if you had said there is no  
16          physical space inside the building which is why it has  
17          to be outside, then that -- and I'm not trying to put  
18          words in your mouth, but...

19          MR. BRENNAN: Well, that's a good point.  
20          And the primary reason is is this is a building that's  
21          occupied by a commercial tenant. So we can't go in  
22          there is say, "You guys need to move all of your  
23          office space." This is -- this is fairly heavy-duty  
24          equipment, and it's not really compatible with --

25          MS. DALE: I thought you said it's the

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2           size of a refrigerator, so didn't know if there was a  
3           closet or existing utility location.

4           MR. BRENNAN: Well, the primary box is  
5           smaller than the size of a refrigerator; but as you  
6           can see on the diagram, there is some other equipment.  
7           There's various pieces of equipment that go along with  
8           the leased area.

9           So the outdoor area is actually a  
10          6-by-8-foot space. That wouldn't be available inside  
11          the building because it's an occupied building.

12          MS. DALE: So if the equipment itself -- I  
13          mean, I'm looking at the diagram, and it certainly  
14          doesn't look very big.

15          Why is the pad 5 1/2 by 8 and not  
16          something smaller? It just looks like it could be  
17          maybe half as wide.

18          MR. BRENNAN: My understanding is they  
19          usually keep a larger lease space because they do need  
20          to periodically maintain or do work on the equipment.  
21          They need to make sure that the space around it is  
22          free of obstruction so that, you know, people can't go  
23          near it, and so that if someone does need to come on  
24          to maintain it, which will happen periodically, that  
25          they have space to do that.

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2           MS. DALE:   So is there like a fence around  
3 the concrete pad or something that keeps people away  
4 from it?

5           MR. BRENNAN:  I believe there is.

6           Ken, can you answer that question?

7           MR. COWLEY:  I'm looking on there, and I  
8 don't believe there is a proposed fence.

9           MR. MIETZ:  Sir, you're going to have to  
10 come up to the podium.

11          MS. DALE:  And just part of our  
12 decision-making is is it like the smallest variance  
13 that's possibly needed or whatever.

14          So when I look at this diagram, it just  
15 looks like a very -- you know, the concrete pad just  
16 looks quite a bit larger than the equipment.

17          MR. DISTEFANO:  You're talking the  
18 concrete on the roof or on --

19          MS. DALE:  No, on the ground where that  
20 equipment sits.  Right?  It's on the ground?

21          MR. DISTEFANO:  State your name for the  
22 record.

23          MR. COWLEY:  My name is Ken Cowley.  I'm  
24 with Airosmith Development, also representing Verizon.

25          MR. MIETZ:  Go ahead, sir.

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2           MR. COWLEY: So if you look at -- I'm not  
3 sure if you have the plans in front of you, but  
4 CC-111, page number. Is that the one you're looking  
5 at? It'd be in the bottom right-hand corner.

6           MS. DALE: Yep. That's it.

7           MR. COWLEY: So that 6 by 8 concrete pad  
8 you can kind of see the box in the upper left-hand  
9 corner of that 6 by 8 lease space. That's the piece  
10 of equipment that Dan was referencing that's about the  
11 size of a refrigerator.

12          MS. DALE: Yep.

13          MR. COWLEY: They have doors on the sides  
14 that need to swing open. So that is there.

15                 Also in that lease space there's utility  
16 equipment that you can see shown next to that.

17          MS. DALE: Yep. So what about the couple  
18 of feet in front of door swinging open?

19          MR. COWLEY: Verizon leases that space.  
20 As frequencies become available with the FCC, as a  
21 public utility and a wireless carrier, Verizon  
22 obviously would be interested in obtaining additional  
23 frequencies so if there is ever an expansion  
24 necessary, the space is already there. So this would  
25 also be for potential future expansion.

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2                   MS. DALE:    Okay.

3                   MR. MIETZ:    Okay.   All right.   Any other  
4 questions?   No?   Good.

5                   Okay.   Thank you very much.

6                   MR. BRENNAN:  Thank you.

7                   MS. SCHWARTZ:  Before you sit down, I have  
8 a question.  Do you feel that these trees which you  
9 said you're going to be planting will fit around this?  
10 I'm asking will there be room for the trees around  
11 this extended pad and then it won't interfere with any  
12 walking, or traffic, or anything at all?  There's  
13 going to be plenty of room for those trees to make  
14 sure there's fill space?

15                   MR. BRENNAN:  There won't be any issue  
16 with that.  We've done a full site plan.  We've had  
17 our engineers go in there and measure all this space  
18 to make sure that there is room for the screening  
19 trees that we plant.

20                   MS. SCHWARTZ:  And what size are you  
21 planning for vegetation?

22                   MR. BRENNAN:  I believe that that is in  
23 the plan, and I can get that information for you.

24                   So if you refer to sheet 5 of 12 on the  
25 site plan -- this is sheet number CC-110 -- it shows

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2           the trees going around the pad; and the references to  
3           seven 4 to 4 1/2 feet tall, 5 1/2-foot -- I believe  
4           that's diameter center -- Hatfield Yew. And that's  
5           the type of tree. So approximately 4 to 4 1/2 feet  
6           tall and 5 1/2 foot diameter at the base. And it's a  
7           conical shape.

8                   MS. SCHWARTZ: Thank you.

9                   MR. BRENNAN: And there's really no --  
10           there's not a walking path there. The walking path  
11           from the parking lot is not near here, so it wouldn't  
12           interfere with that.

13                   MR. MIETZ: Thank you very much.

14                   Is there anyone in the audience that would  
15           like to speak regarding this application?

16                   There being none, the public hearing is  
17           closed.

18

19           10A-04-16 Application of David Burrows, architect, and  
20           Marc Polverino, owner of property located at 59 Avalon  
21           Drive, for modification of an approved variance  
22           (9A-04-89) allowing for the partial conversion of a 2  
23           car attached garage which was granted side and rear  
24           setbacks of 2 ft. each, into living quarters. All as  
25           described on application and plans on file.

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2                   MR. POLVERINO: Hello. I'm Mark  
3 Polverino.

4                   MR. MIETZ: Just give your address too,  
5 please.

6                   MR. POLVERINO: 59 Avalon Drive, and  
7 applying for modification of a variance that was  
8 previously obtained by the previous owners for the  
9 attached garage.

10                  The -- my desire for a variance is to  
11 convert that garage which was under a variance, half  
12 of that garage, into living space. The reason I'm  
13 looking for that is because my mother, who is 91 years  
14 old, was recently in the hospital and unexpectedly  
15 needed to come live with us.

16                  The quarters in the home really don't  
17 accommodate her needs. The bed that we were able to  
18 place on the first floor is tucked away in a bit of a  
19 corner surrounded by three walls, and it's a  
20 full-sized bed. There's only room for her to get out  
21 of the bed on one side of the bed.

22                  She can't climb stairs, so we can't use  
23 any of the upstairs bedrooms.

24                  And she's lives -- she's been living on  
25 her own out in Wayne County, and she's not been able

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2           to care for herself there. So it would really be a  
3           financial burden and hardship for her to stay in her  
4           home, so this has been the best alternative for her.

5                   And I'm happy to report that she no longer  
6           needs a walker, which is what she required when she  
7           left the hospital, and is doing well, has regained  
8           weight and seems much better. But her living  
9           situation isn't -- her living quarters isn't really  
10          ideal, so I'd like to add living quarters to the home  
11          so that she would have a space for bedroom, bathroom  
12          and maybe a little spot for TV. So it would be half  
13          of the existing garage.

14                   I want to note that the portion of the  
15          garage that we'd be using -- if you looked at my home  
16          from the street, the garage is in back of the home,  
17          and you can only see about half of that garage. And  
18          the part that we'll be modifying with your approval,  
19          if that occurs, would be the section that you wouldn't  
20          see from the street.

21                   There would be no external modifications  
22          other than turning the half of the front of the garage  
23          that's a -- the garage door, half of that would be  
24          turned into an 8-foot-wide door rather than 16 foot as  
25          it is now, and then a wall would be placed and a

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2       window. But again, that would be minimally visible  
3       from the street at any rate. And as far as exterior,  
4       there's really no modifications to be made other than  
5       turning half that garage door into a wall and window  
6       there.

7                   MS. TOMPKINS WRIGHT: Will there be access  
8       from the garage to the living space?

9                   MR. POLVERINO: Well, the garage would  
10      be -- we have the drawings here. So the home is set  
11      up, and out the back of the home is the attached  
12      garage connecting -- there's a walkway that connects  
13      the back of the home to the garage, and that would be  
14      the portion that would have the living space.

15                   So, no, there would be no access to the  
16      garage from the interior of the home. It would only  
17      be accessible outside.

18                   MS. CORRADO: And the only access into  
19      this living space is through that corridor attaching  
20      to the home?

21                   MR. POLVERINO: Correct.

22                   MS. CORRADO: And that corridor here,  
23      those are sliding doors. That's access onto the  
24      driveway directly into the breezeway corridor?

25                   MR. POLVERINO: Right. So the breezeway

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2           has sliding glass doors. One accesses the driveway,  
3           and the other side to the yard that's behind the  
4           house.

5           MS. CORRADO: And right now the plan is  
6           only for the bath and the living space? No cooking  
7           facilities; no kitchenette in there?

8           MR. POLVERINO: Correct. It would only be  
9           bathroom, an area for bed, bedroom, and then maybe a  
10          couch with a television. So no kitchen.

11          MR. DISTEFANO: Yeah. Just so you guys  
12          understand that this area can't be a full dwelling  
13          unit. You can't have full, you know, bath and a  
14          kitchen in that area. One or the other is okay. It  
15          has to be an integral part of the house to be allowed  
16          under our code.

17          So some of the questions that have come up  
18          is this connection area. Is that an integral part of  
19          the home? If it's just a breezeway, the doors have  
20          got to be kept closed at all times during the winter.  
21          You know, what does that make it do? I mean, what  
22          happens there, does this breezeway need to be upgraded  
23          to allow for heated space and so doors can be open and  
24          there's free passageway in between. Because you can't  
25          block that off and allow for that to be locked off.

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2           And I'm not saying this individual will do  
3 it, but the house gets sold and somebody says, "Hey,  
4 this is a great little apartment," you know, "It's  
5 already separated from the house, and we're going to  
6 just throw a stove a refrigerator in here. Let's go."

7           So that's one thing we have to be  
8 concerned about and we have to kind of guard against.

9           So again, I don't know what the, you know,  
10 code requirements, David, are in regards to that  
11 breezeway, turning that into something that is -- you  
12 know, makes the proposed apartment into an integral  
13 part of the home itself.

14           MR. BURROWS: Right. I'm David Burrows,  
15 architect.

16           And to answer Rick's question, we've not  
17 yet really dug far into building code. We want to get  
18 through this first. If we do get the zoning variance,  
19 then we'll spend more time investigating what is  
20 needed to make that breezeway considered part of  
21 living space.

22           Because it wasn't built as living space  
23 and now we're converting it to that, we don't know how  
24 far we need to go to make it comply with code.

25           Physically, in terms of making the garage

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2           and living space, that can be done, but we don't want  
3           to spend a lot of time on it until we know we've got  
4           the approval.

5           MR. MIETZ:   So what is -- absent the  
6           specifics of the code, what is the plan of how this is  
7           going to be heated, and how is it actually -- let's  
8           forget the breezeway for a second.

9           MR. BURROWS:   The garage itself can be  
10          insulated.   We can put a ceiling in above -- well,  
11          there's already a flat ceiling in there now.   We would  
12          drywall and insulate there, put a horizontal furnace  
13          above that for use, Mr. Slim Mini Split system, that  
14          provides heating and air-conditioning.   It's very  
15          energy efficient, easy to install.

16          Plumbing-wise, we're putting the bathroom  
17          as close to the house as we can so that we're running  
18          the pipes as short a distance as possible.

19          Electricity will be dependent on the  
20          house.   Everything from the house.   There will be no  
21          separate utilities.   So we imagine a trench being dug  
22          next to the breezeway that contain utilities to the  
23          garage.

24          MR. MIETZ:   What are you going to do with  
25          the slab?   Are you going to --

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2                   MR. BURROWS: We'll probably build up from  
3 the slab with sleepers and insulation and a sub floor.  
4 So we'll be able to isolate the new floor from the  
5 slab.

6                   MR. MIETZ: So what's of question then  
7 right now is the breezeway. What is that -- what is  
8 the flooring in the breezeway?

9                   MR. BORROWS: I believe it's concrete  
10 slab.

11                  MS. BAKER LEIT: And is there any heating  
12 in the breezeway, or is it just a simple covered  
13 breezeway at this point?

14                  MR. POLVERINO: Right. It's fully  
15 enclosed, protected from weather, but no heat.

16                  MR. MIETZ: Just simply an access from the  
17 garage basically?

18                  MR. POLVERINO: Correct. Yeah. The main  
19 impetus for this variance was the fact that the garage  
20 itself was a variance, and this is a modification of  
21 use.

22                  MS. BAKER LEIT: But I think that, in  
23 terms of what Mr. DiStefano described, that breezeway  
24 has to become an integral part of the house so that  
25 this addition flows into the house so not to actually

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           separate them out into separate apartment and house.

3           MR. DISTEFANO:   Right.

4           MR. MIETZ:   That's part of the variance as  
5           well.

6           MR. DISTEFANO:   That's part of the  
7           allowance for the modification to allow for that  
8           livable floor area.

9           MR. BURROWS:   Well, you know, I do  
10          understand the need to not have a separate entrance  
11          for this living quarters.  It would be a shame to have  
12          to close the breezeway off because it accesses the  
13          yard and the driveway.  So it's convenient --

14          MS. BAKER LEIT:  I don't think that's what  
15          we're asking.  We're asking for it to actually be an  
16          additional living space so that it's not completely  
17          separate.  So it has to be adapted so it flows as a  
18          house rather than a house and apartment.

19          MR. MIETZ:   It'd be just the opposite of  
20          what you're saying.

21          MR. BAKER LEIT:  So you could still have  
22          the doors, but it's more as a function.  Can the  
23          mother walk into that space as if it's another part of  
24          the house?

25          MR. POLVERINO:  She walks into that space

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2           now to go into the yard frequently.

3                   MS. BAKER LEIT: But what I'm saying is,  
4           in the dead of winter, could she go out there in her  
5           slippers?

6                   MR. BURROWS: I think even just for  
7           comfort sake, we'd want to make it comfortable. We'd  
8           want it heated and insulated, and air-condition it as  
9           well, so that it was a comfortable connection.

10                  MR. MIETZ: Right.

11                  MS. BAKER LEIT: Rather than a hallway.

12                  MR. DISTEFANO: Right. And there's no  
13           saying that you can't have the sliding glass doors  
14           there. People have sliding glass doors in their house  
15           all the time.

16                   But can you construct it, modify it, so  
17           that it meets New York State energy code and actually  
18           becomes living area?

19                  MR. BURROWS: I think that we can. I  
20           don't think there's any insulation above the ceiling,  
21           so there's room for insulation there. There's  
22           possibly room for insulation on the floor. We could  
23           build it up like we are doing in the garage.

24                   But, you know, those are things I was  
25           saving for later.

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2           MR. MIETZ:   Okay.   Just so you understand.  
3   We can discuss it further later.   It's sort of like a  
4   chicken/egg thing, so we've got to be a little careful  
5   whether we place a number of conditions that you will  
6   have if we decided to approve it.

7           So, okay.   All right.   Anything else you'd  
8   like to add?

9           MR. DISTEFANO:   Have you talked to any of  
10   your neighbors in regards to this?

11          MR. POLVERINO:   Yes.   Thank you for  
12   bringing that up.   Actually, Joseph and Carol Plater  
13   are here in the audience in support.   I have a letter  
14   from them as well.

15          I have three other letters from folks in  
16   the neighborhood as well.   I don't know if you need  
17   these.

18          MR. DISTEFANO:   Can you just tell us real  
19   quick which neighbors you talked to and these letters  
20   come from?

21          MR. POLVERINO:   So both on directly both  
22   sides of my home, and the neighbors behind the house,  
23   and then one neighbor across the street, directly  
24   across the street.   So nobody has said that they have  
25   any concerns with it.

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2                   MR. DISTEFANO:   So the people most  
3 directly affected by the modification?

4                   MR. POLVERINO:   Right.

5                   MR. MIETZ:       Very good.

6                   MR. DISTEFANO:   I'll just say quickly for  
7 the record they received a letter from residents at  
8 50 Danbury Circle North, 30 Danbury Circle North,  
9 65 Avalon Drive and 51 Avalon Drive in support of the  
10 request.

11                  MR. MIETZ:       Okay.   Any other questions?

12                  Okay.   Thank you very much.

13                  MR. POLVERINO:   Thank you.

14                  MR. BURROWS:   Thank you.

15                  MR. MIETZ:       Is there anyone in the  
16 audience who would like to speak regarding this  
17 application?

18                  There being none, the public hearing is  
19 closed.

20

21                  10A-05-16 Application of 2600 Elmwood, LLC, owner of  
22 property located at 2600 Elmwood Avenue, for  
23 modification of a use variance (5A-07-97 and  
24 12A-04-13) to allow for "CoreLife Eatery," a fast  
25 casual restaurant to occupy the entire building,

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2       replacing a bagel restaurant, a frozen yogurt  
3       restaurant and a short order eatery as previously  
4       approved. All as described on application and plans  
5       on file.

6           MR. MALBONE: Aaron Malbone, Buckingham  
7       Properties. We're looking for modification of a use  
8       variance to allow for CoreLife Eatery in replacement  
9       of the other three tenants that were in the building,  
10      Sabra Grill, Yolickity and Bruegger's Bagels.

11           They would like to take the entire  
12      building, not modify the footprint of the building,  
13      but do some renovations. And it's much less impact as  
14      to some of the other tenants in that building. It's a  
15      variance we had gotten approved from you guys before.

16           It will be very much a beneficial use for  
17      the community. It's been asked for by multiple  
18      members of the community. And I believe it's a great  
19      use of the building.

20           MR. MIETZ: Well, first of all, why don't  
21      you, for the record -- either you or the folks that  
22      are going to operate this restaurant, can you just  
23      give us a little background on --

24           MR. MALBONE: Sure. They're here. Yes.  
25      Absolutely.

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2           MR. MIETZ: That would be good. Just some  
3 of us are aware of the restaurant, but just for the  
4 record.

5           MR. MANSFIELD: I'm Todd Mansfield, one of  
6 the owners of the restaurant.

7           And so the background: We're -- Brighton  
8 will be our fifth store.

9           We're a fast-casual concept, single-line  
10 serve, like a Chipotle or Moe's. We serve basically  
11 lettuce, grains, and soups like bone broth.

12           We have two other -- well, three other  
13 stores in the Rochester market before Brighton. We're  
14 in Webster, Greece, we're opening in Henrietta in  
15 three weeks, and we're hoping to be here sometime  
16 early '18.

17           We're really an active lifestyle brand.  
18 We're sort of a store that's offering clean, healthy  
19 food to local communities. We're very connected to  
20 community with races and events and, you know,  
21 whatever, you know, health initiatives.

22           We believe we'd be a great addition to  
23 your community.

24           MS. SCHWARTZ: Could you describe the food  
25 preparation other than the greens and grains and the

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2 things that would go with it?

3           MR. MANSFIELD: Sure. We do have a steak.  
4 We have a grill where we do steak and chicken. We  
5 prepare tofu. We're really pretty -- I'd say we're  
6 very low maintenance. We do -- we have some kettles.  
7 We make bone broth in the store, and we make all our  
8 ingredients from scratch. We -- I would say that's  
9 it.

10           MS. SCHWARTZ: So you don't feel that  
11 there would be any fumes that would impact the  
12 neighborhood?

13           MR. MANSFIELD: No. I would say the fumes  
14 are very minimal.

15           MS. CORRADO: Any fried food? Any fryer  
16 operations?

17           MR. MANSFIELD: No. We -- no, not really.

18           MR. MIETZ: So the meat preparation is a  
19 standard grill set up then, with the hood and all?

20           MR. MANSFIELD: Correct.

21           MR. MIETZ: So there is exterior emissions  
22 from that hood?

23           MR. MANSFIELD: Yes. Correct. So we're  
24 not a steakhouse -- we're really a salad concept --  
25 but we do cook chicken and steak on the grill.

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           MS. BAKER LEIT: But in terms of like your  
3 overall, what percentage would you say you do in terms  
4 of gilling versus -- because it looks like you have a  
5 lot of salads, a lot of noodles.

6           MR. MANSFIELD: Yeah. Yeah. And some of  
7 those salads have a protein on them. It's a 3-ounce  
8 scoop of a protein on them if they use it. I would  
9 say 30 percent or 40 percent are going to be chicken  
10 and steak.

11          MS. SCHWARTZ: The other thing is too is  
12 there was a problem before with dumpsters. '

13                  How many do you feel you need, and will  
14 they be enclosed?

15          MR. MANSFIELD: The answer is yes, they  
16 will definitely be enclosed. And dumpsters...

17          MR. CAVENY: John Caveny, vice president  
18 of operations.

19          MR. DISTEFANO: I'm sorry. Your last  
20 name?

21          MR. CAVENY: Caveny, C-A-V-E-N-Y.

22                  We'll have a cardboard, you know, dumpster  
23 just for taking out any recyclables. You know, just  
24 have like an 8 yard. It will be totally encased and,  
25 you know, have a latch on it and a lock.

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2                   Again, we don't have a lot of -- we use  
3 pretty much everything that we bring in. We don't  
4 have a freezer. It's fresh vegetables coming in every  
5 day, and we use almost everything that we have, so  
6 it's pretty minimal.

7                   MR. MALBONE: Just one thing: We have  
8 that existing space that we got approved for storage.  
9 That's the area -- they plan on using that existing  
10 area, not adding to that or modifying that at all.

11                  MS. DALE: Are there plans to have seating  
12 outside?

13                  MR. MALBONE: They just plan on using the  
14 patio that we have out there already that's been  
15 approved seasonally. That's the only seating outside.

16                  MS. SCHWARTZ: And you said you're not  
17 changing the footprint of the building at all?

18                  MR. MALBONE: Correct.

19                  MS. SCHWARTZ: But you are changing the  
20 facade?

21                  MR. MALBONE: Correct. Yes.

22                  MS. CORRADO: Has the -- with the facade  
23 change, has that gone before the architectural review  
24 board?

25                  MR. MALBONE: Yeah. We've met with them a

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2       couple times, but we're working with them on this  
3       right now.

4           MS. SCHWARTZ:   So you don't have approvals  
5       yet from them?

6           MR. MALBONE:    We do not.

7           MR. MIETZ:     Can you discuss what you're  
8       working on with --

9           MR. MALBONE:    Sure.  I'm pretty sure you  
10       guys have most a lot of renderings.  It's part of the  
11       packets.

12          MR. MIETZ:     Yeah.

13          MR. MALBONE:    We basically just want to  
14       make the outside match the brand, a lot of  
15       natural-elements-feel look, make it modern.  The  
16       building looks pretty dated.  Bring some new theme to  
17       the building, add some new glass, just kind of bring  
18       it into -- I don't want to say "modern," but the new  
19       standard.

20                 And it also matches the brand with a lot  
21       of, again, woods, some stone, various materials.

22          MS. SCHWARTZ:   Is it much smaller -- I  
23       mean, I know it looks like a flattop roof line and so  
24       on so forth, but I wasn't able to tell how much taller  
25       it might be with this being over the existing.

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2           MR. MALBONE: So that's one of the issues  
3 that we're working on with the ARB is to just get the  
4 scale, that verticality, things like that, to --

5           MS. SCHWARTZ: Because it really is a  
6 small-town neighborhood, and when I looked at it, to  
7 me it looked big box. So I have some concern with  
8 that.

9           MR. MALBONE: Sure.

10          MS. CORRADO: Related concern as well.  
11 The facade is architectural review board, but the  
12 facade on the Elmwood Avenue side seems quite blank  
13 and permeable. Has the architectural review board  
14 commented on that?

15          MR. MALBONE: Yes. They would like to see  
16 much more translucent materials on the building on  
17 that side of the building as well.

18          MS. CORRADO: How about accommodations,  
19 bicycle racks and that, because you have outdoor  
20 seating and it's a healthy restaurant?

21          MR. MALBONE: Yeah. We have some bike  
22 racks there, but we're certainly open to adding some  
23 more, you know, to live the brand, so to speak, for  
24 more. Absolutely.

25          MS. CORRADO: And is that accommodated in

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2           your parking review? You did do a survey of parking  
3           and noted the availability of parking spaces. Are you  
4           taking into account --

5           MR. MALBONE: The bicycling would be on  
6           top of those numbers.

7           MS. CORRADO: So, hours of operation?

8           MR. MANSFIELD: 11:00 to 9:00.

9           MS. CORRADO: Is there, for your  
10          deliveries, pre-seating and after hours?

11          MR. MANSFIELD: Yeah. We get deliveries  
12          in in the mornings.

13          MS. CORRADO: And trash pick up as well?  
14          Those hours could be limited too since this so close  
15          to a residential neighborhood?

16          MR. MANSFIELD: Sure. I don't think --  
17          yeah.

18          MS. DALE: 11:00 to 9:00, seven days a  
19          week?

20          MR. MANSFIELD: Yeah.

21          MS. TOMPKINS-WRIGHT: Can you explain that  
22          community room a little bit? I know it's on the  
23          revised letter. It says it's going to be available  
24          for group gatherings after -- it's after 9:00?

25          MR. MANSFIELD: So the community room is

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2           sort of an afterthought. We don't have a community  
3           room anywhere.

4                   MR. DOLLINGER: It's a new idea.

5                   MR. MANSFIELD: The footprint is really  
6           bigger than we need. We want to be in Brighton, and  
7           so this location seemed like a good location. And  
8           having shared space with another tenant, it just  
9           didn't seem to work.

10                   So what we have done is we've community  
11           in, where we might talk about health, gut health, we  
12           might talk about nutrition, in one of our other  
13           locations. So our thought was we might use that for  
14           that kind of activity.

15                   We don't have to do a community room. So  
16           I would just offer that, that you guys can put  
17           perimeters around this community room, you know,  
18           whatever you think appropriate, whether we use it  
19           before we open for training and teaching and community  
20           activity, whether we use it for things for the  
21           community during the day. We do not have a  
22           targeted -- we don't have it targeted really for  
23           anything at this point.

24                   MS. CORRADO: Do you anticipate it -- so  
25           before the 11:00 a.m. opening, it might be in use.

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2       Would you anticipate it being used in evening hours  
3       going beyond the 9:00 close?

4           MR. MANSFIELD:   I would not.

5           MS. SCHWARTZ:   I would go a step further.  
6       As far as community, would, for instance, a  
7       neighborhood association meeting be --

8           MR. MANSFIELD:   Yes.

9           MS. SCHWARTZ:   So it would be open to --

10          MR. MANSFIELD:   Yeah.  Whatever you want.

11                 I think the message to you is you guys put  
12       perimeters around it for us and we'll abide by those.  
13       We're not -- because it's sort of this room we're not  
14       exactly sure what to do with.  So if you put some  
15       restrictions up to where, "These are our concerns  
16       about this room; kind of a stay within these rails,"  
17       we'll be happy to do that.

18                 What we want to do is we want to give back  
19       to the community.  Our success really is driven by  
20       people and communities saying, "This is where we  
21       should go."  So the better we do that, I think the  
22       more successful we'll be.

23          MS. CORRADO:   With that, what kind of  
24       seating capacity do you anticipate for that room?

25          MR. MANSFIELD:   I'm not sure.  But in my

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2 head right now is we might have a conference table in  
3 there. I'm not even positive of that.

4           Right now what we have is a room with a  
5 wall and really just sort of an open-ended --

6           MR. DISTEFANO: I think that's something  
7 we need to be careful with. Because if you look at  
8 their floor plan, they're proposing 99 seats. That is  
9 required upon the original parking variances that were  
10 granted for the Bagel Bin restaurant back in the  
11 early-mid '90s.

12           So the 99 had carried through with the  
13 latest -- or -- excuse me -- the last change in use  
14 which included Yolickity, Sabra and Bruegger's. So  
15 they are really tied in into that 99 unless they ask  
16 to modify the original parking variance.

17           So on their floor plan, they're showing 99  
18 seats.

19           MR. MIETZ: But every time they add into  
20 the community room --

21           MR. DISTEFANO: But if they want to do  
22 anything with the community room at the same hours  
23 that the restaurant is open, now we're going over that  
24 99.

25           If they want to put outdoor dining in and

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2           not remove seats from the main dining room, we're  
3           going over 99.

4           MR. MIETZ:    Right.

5           MR. DISTEFANO:  So I think that's  
6           something they understand.  We've had this discussion.  
7           They're trying to figure out, "Okay, we're marked and  
8           it's 99 seats," you know, "What can we do with the  
9           community room?  Can we do it before and after hours?"

10          Which, provided that you don't go over,  
11          you know, the use of 99 seats at any given time, yeah,  
12          you probably could, provided also that you meet our  
13          hours of operation for that zoning district.

14          So I think that's something that we as a  
15          board have got to understand, and when we do  
16          perimeters, if we put perimeters on this community  
17          room or the outdoor dining, that it is keeping with  
18          the rights to only go to the 99-seat requirement as  
19          previous variance has allowed.

20          MS. CORRADO:  I'm sorry.  Just for  
21          clarification then, with the parking and the potential  
22          for bicycle parking versus cars, does that influence  
23          in any way our conversation about seating?

24          MR. DISTEFANO:  No.  Unfortunately, the  
25          code does not take into consideration bicycle parking.

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           It is how many -- you know, how many seats per parking  
3           space. And that's what the variance is based on.

4                   And it's hard to do that in the climate we  
5           have where, from November to March, how many people  
6           are riding their bike to go to CoreLife Eatery and not  
7           use up a parking space.

8                   So it becomes a little difficult in that  
9           regard.

10                   MS. CORRADO: -- consider that in the  
11           future and if the community room use were to make it  
12           difficult to maintain the 99-seat variance.

13                   MR. DOLLINGER: Plus, I suspect it would  
14           be somewhat selfish. I mean, they're not going to  
15           schedule big community events at lunch when they're  
16           already busy. I get that.

17                   MR. MIETZ: I think we --

18                   MR. DOLLINGER: Parking over there is such  
19           that by use of that would be somewhat --

20                   MS. CORRADO: We just want to be careful  
21           not to box them in on --

22                   MR. DISTEFANO: Right. But one other  
23           thing though, too, could be just the fact that you're  
24           allowing a business group to only, you know, have 10  
25           people there. You know, you're over your parking

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2 requirements if they don't take any seats out of the  
3 main dining room.

4           MR. MIETZ: That's right.

5           MR. DISTEFANO: So it doesn't matter how  
6 big it might be. If it's 1 seat over the 99, you're  
7 in violation of that variance. So that's what we have  
8 to be --

9           MR. MIETZ: We'll have to kind of kick  
10 that around a little bit.

11           But at this point, though, when you say,  
12 "We have no plan," I mean, are you going to develop a  
13 plan? We can see there's a little -- there's an issue  
14 here.

15           MR. MANSFIELD: Yeah. Let's not leave it  
16 as we have no plan. But I would say our plan is --  
17 our plan today is to use that room from 8:00 in the  
18 morning 'til 11:00. We plan to use the room before  
19 the store opens. We do not plan to use the room from  
20 11:00 to 9:00.

21           MR. MIETZ: For any purpose?

22           MR. MANSFIELD: Yeah. Today, for the  
23 plan, you know, if you guys came and said, "Hey, we  
24 have something we want to do with the room; we'd like  
25 it to be a community room" -- the last group of people

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2           I spoke to said Brighton needs places for community to  
3           meet.

4                        What we can't do is we can't be punished,  
5           because we're trying to extend -- we're paying for the  
6           space, and we want to be a great neighbor. And if you  
7           want to help us be a great neighbor, we're all for  
8           being a great neighbor.

9                        So what I don't want us to do is step --  
10          is limit our process here by saying, "Hey, we don't  
11          have a plan yet, so come back to us when you have a  
12          plan."

13                      MR. MIETZ: Well, that's why I asked you  
14          do you have a plan. That was for your benefit.

15                      MR. MANSFIELD: Yeah. So the plan is  
16          we're going to be -- we're going to use that space  
17          from 8:00 to 11:00. That's our plan.

18                      MR. MIETZ: Okay. So we can discuss that  
19          further. But any other -- go ahead.

20                      MS. SCHWARTZ: Do you have the need for  
21          any more mechanicals that are there, or are you going  
22          to be taking some down that might already be there?

23                      MR. MALBONE: So they plan on using most  
24          of the HVAC mechanicals or plumbing that's already in  
25          the building, just going to repurpose it and modify it

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2           to accommodate what their needs are.

3           MR. DISTEFANO:   So just kind of going a  
4           little bit on what Judy asked, there is an existing  
5           fryer system with vents.  You guys won't be doing any  
6           use with the fryer?

7           MR. MANSFIELD:   No --

8           MR. DISTEFANO:   So the fryer basically --  
9           that whole thing basically goes away.  So that is a  
10          reduction, actually.

11          MR. MALBONE:   Absolutely, one of our goals  
12          that we wanted to do.

13          MS. SCHWARTZ:   So then, Rick, that means  
14          there won't be the need for an outdoor, unenclosed  
15          grease collector?

16          MR. DISTEFANO:   Yeah.  If they're not  
17          doing anything that needs the --

18          MS. SCHWARTZ:   So all the -- all the --  
19          everything will be all enclosed then.

20          MR. MIETZ:   They're saying they're using  
21          dumpsters.

22          MS. SCHWARTZ:   I mean dumpsters, yeah.

23          MR. MALBONE:   The grease pit would be  
24          gone, yes.

25          MS. SCHWARTZ:   Good.

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2           MR. MIETZ: All right. So I think -- are  
3 the board members clear on what's going on with the  
4 ARB part of this? So that's not finished yet.

5           You understand the use? Do you have any  
6 questions about the use, or the hours, or --

7           MR. DISTEFANO: I just have a quick  
8 question. Just, what is your peak time? Do you peak  
9 at lunch; do you peak at dinner?

10          MR. MANSFIELD: We're really a lunch  
11 brand. Really like probably 12:15 to 1:30 is really  
12 our peak.

13          You know, we are working harder to become  
14 more of a dinner. And it's really funny that -- when  
15 people eat. We're a millennial brand. You know,  
16 we're that younger group. So they eat a bit later.  
17 So, you know, the 6:30, maybe 7:30ish is when we get  
18 our next bump.

19          We're probably 65 lunch, 35 dinner I would  
20 say.

21          MR. MIETZ: Just for our information: So  
22 in comparing to the other locations that you've  
23 operated for a bit, how does the seating on this one  
24 kind of line up?

25          I'm not asking for a list, but just how

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2           did you scale --

3                   MR. MANSFIELD:   Listen.   This is the  
4           biggest store we're going to have.   It's by far the  
5           biggest, which is why we're talking about this  
6           community room.   Because we're like, "Okay, what do we  
7           do?"

8                   It's not the most seats though.   We would  
9           love more seats.   99 seats is -- it's stretching.   We  
10          hope to be busy, especially at lunch where people come  
11          in.   You know, we do move people through the line  
12          quickly.   So we're giving people way more.   We spend a  
13          lot of time, a lot of money to have a really fun,  
14          upbeat place where people want to go.

15                  You know, and I don't want to slow us  
16          down, but if we could get more seats for those -- and  
17          again, I'm just talking -- that would allow more  
18          people to sit indoors and sit outdoors.

19                  I think in Syracuse we have 140 seats.  
20          And today, you know, 5th of October, a beautiful  
21          day -- I was there today, and it was just -- people  
22          were everywhere outside eating.   And they're healthy,  
23          vibrant folks that are just -- they're trying to kind  
24          of get on track with how they're eating.   It's really  
25          great.

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2                   MS. DALE: Is there also takeout, like to  
3 go?

4                   MR. MANSFIELD: Yeah. We don't have order  
5 to go yet. But yeah, listen, by the time we're here  
6 we'll have to go, you know, online, where you just use  
7 your phone, click and just come in and just pick up.

8                   MR. MIETZ: But you do takeout in the  
9 other locations now?

10                  MR. MANSFIELD: Yeah. We do takeout, but  
11 you can't -- it's not online ordering takeout. Like  
12 people can come in, order their food --

13                  MR. MIETZ: Oh. So you can't call up,  
14 order --

15                  MR. MANSFIELD: Yeah. We don't have that  
16 yet, but by the time -- two weeks we should have that.  
17 We've spent a year. We're two weeks away from  
18 being -- having people be able to order online.

19                  MS. TOMPKINS WRIGHT: Would you say the  
20 majority of people eat in, order it in?

21                  MR. MANSFIELD: I would say it's maybe 70,  
22 75 stay in, 25 -- that's about it.

23                  MR. MIETZ: Pick their stuff up.

24                  MR. MANSFIELD: Yeah.

25                  MR. MIETZ: Okay. So any other questions

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2           of the board members? Anything else, Rick, David, at  
3           this point?

4           MR. DOLLINGER: Sounds great.

5           MR. MIETZ: Okay. Thank you, gentlemen.

6           MR. MALBONE: Thank you.

7           MR. MIETZ: Anyone in the audience who  
8           would like to speak regarding this?

9           MR. CAIAZZA: Yes.

10          MR. MIETZ: Please.

11          MR. CAIAZZA: Thanks for the opportunity  
12          to speak to the board.

13                 I'm Tony Caiazza -- it's C-A-I-A-Z-Z-A --  
14          and I'm the neighbor. I live at 2566 Elmwood, the  
15          house directly adjacent to the proposed new  
16          restaurant. And I wanted to come in tonight to  
17          express some concerns that I have.

18                 I've been a resident of Brighton and in  
19          that home for 45 years, so I've experienced all the  
20          changes from the post office forward.

21                 And I've tried to be a cooperative and  
22          good neighbor, and I think I have been. I supported  
23          some of the changes as they took place even though I  
24          think the building is in worse shape now than it was  
25          when I started. For example, there are long metal

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2       pipes that go the whole length of the back of the  
3       building that face my house.

4           Buckingham has provided me with the plans  
5       that I've looked at. And my major concern is the size  
6       of the new building, specifically the new height,  
7       given how close it is to my house. It is really very  
8       close to my house. And you have the drawings. You  
9       can see that. It would block the light.

10          I'm also concerned because I'm hearing  
11       today for the first time that they'll be grilling,  
12       which may have some impact on my ability to, you know,  
13       peacefully and quietly enjoy my home.

14          But my major concern is the impact this is  
15       going to have on the value of my house. At this stage  
16       of my life, I'm not going -- you know, I'm not going  
17       to be living there for another 20 years, and I'm going  
18       to need to sell the house. And with a restaurant of  
19       that size that close to my home, I feel certain I'll  
20       lose value, and maybe significant value.

21          That's my number one concern, and that's  
22       the height of the building, given the distance.

23          I understand the architectural review  
24       board is going to look at this matter at the end of  
25       the month, and I'm planning to attend that meeting.

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2           But I do think the changes have something to do with  
3           zoning, because it has to do with the nature of the  
4           neighborhood is like --

5                   MR. MIETZ:   They do, sir, yes.

6                   MR. CAIAZZA:  -- and the impact it'll have  
7           on the neighborhood to have such a large building.

8                   And I know you have the plans.  You've  
9           seen how much higher it is.  It will really block --  
10          it will block the whole side of my house from the  
11          light of day, and that's a real concern.

12                   I also wonder about the size of the  
13          restaurant, and how busy it's going to be, and the  
14          impact it's going to have on parking and the  
15          businesses of the -- of the plaza that's my next-door  
16          neighbor.

17                   So that's what I came today to express.

18                   MR. MIETZ:  Okay.  Let me just assure you  
19          that the architectural review board has their  
20          responsibility to look at this, but we do as well.

21                   We aren't the architectural review board,  
22          but we're responsible to look at what the impact of  
23          this decision is on the neighborhood.  And we will.

24                   MR. CAIAZZA:  And I understand the  
25          neighborhood, but also this specific neighbor.

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2                   MR. MIETZ: You are part of the  
3 neighborhood.

4                   MR. CAIAZZA: Yeah. I mean, my --

5                   MR. MIETZ: -- understand this is a  
6 variance.

7                   MR. CAIAZZA: My home is zoned  
8 residential.

9                   MR. MIETZ: Correct.

10                  MR. CAIAZZA: As it stands, when I sell my  
11 home, I'll have to sell it as a residence.

12                  And, you know, I don't question I'll lose  
13 value. The only question is how much value I'll lose  
14 if such a building is erected so close to my home.

15                  MR. MIETZ: Okay. Thank you very much.

16                  MR. CAIAZZA: Thank you.

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

20                  Okay. There being none, the public  
21 hearing is closed.

22

23 10A-06-16 Application of Shai Shafrir and Sharon  
24 Shafrir, owners of property located at 2850 Elmwood  
25 Avenue, for a Temporary and Revocable Use Permit

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2           pursuant to Section 219-4 to allow a camping trailer  
3           to be parked in the driveway for a 4 month period  
4           where not allowed by code. All as described on  
5           application and plans on file.

6           MR. SHAFRIR: Good evening. My name is  
7           Shai Shafir. So I represent myself and my wife here.

8           And the reason for this application is  
9           actually representing my son, which I'm going to talk  
10          about in a second.

11          The house right now is under significant  
12          renovation, which was approved by the committee and I  
13          think also architectural committee because of the  
14          change of some windows, where we are putting an  
15          elevator in the house, and some significant other  
16          renovations to accommodate my son who is physically  
17          disabled and requires full care, nursing, and so on.

18          During this renovation obviously we need a  
19          place to live. And we are now camped inside the house  
20          in two rooms, and everything else though is protected  
21          from dust and so on. And actually, the contractor did  
22          a very good job to accommodate that.

23          However, when my son comes back from  
24          school around 3:00 p.m., the contractor is still  
25          working very hard in that facility. And the amount of

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2       motion, so on, noise in the house, people walking by,  
3       basically the thin layer of nylon does not provide any  
4       sound barrier. He's very sensitive to sound and  
5       things like that.

6           And therefore, what we thought about a  
7       solution for this for this period of time is to put --  
8       we have a camper. It's usually in storage, because in  
9       Brighton we cannot have a camper more than 72 hours.  
10      I believe that's the code.

11           And we do camp a lot, and this kid likes  
12      the outdoors, so we are using the camper as a solution  
13      for a few hours in the day when he comes back from  
14      school. He has a nurse waiting for him. She takes  
15      him into the camper, and he lies down there to rest  
16      until they leave, and goes back to the house.

17           So what we're looking for is basically a  
18      permanent -- not permanent -- sorry -- a temporary  
19      solution for the time of this renovation.

20           There's some slow lead time with some  
21      activities. For example, the renovator was supposed  
22      to be in a certain date. Now it's going to be  
23      November. The shaft is there, and we have this nice  
24      hole there, but no elevator.

25           So all these things are happening, but

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2           some of them are out of our control.

3                       So that's our request if you are willing  
4           to accept.

5                       We did speak to -- sorry -- we did speak  
6           to our neighbors, the ones next to the right and left  
7           basically, and the one opposite from across the  
8           street, explained the situation and they were very  
9           supportive.

10                      Unfortunately, I did not get any letters,  
11           but if you any questions...

12                      MR. MIETZ:   Questions?

13                      MS. BAKER LEIT:   You've asked for four  
14           months.   Are you certain you don't need any additional  
15           time?   Will they be able to finish by -- you know,  
16           that's --

17                      MR. SHAFRIR:   Fantastic question.   I'm  
18           hoping four months is enough.   Believe me, I don't  
19           want the trailer there as much as anyone else.

20                      I think the four months is enough.   If the  
21           committee thinks I'm more conservative and need to be  
22           five months, that's fine.   But once we don't need it,  
23           believe me, it's going to go.

24                      MS. DALE:   And there's adequate parking  
25           for you with -- there's -- with the camper and then

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2           there's a dumpster?

3                   MR. SHAFRIR:   Yes.

4                   MS. DALE:   Are you still, as for  
5           parking --

6                   MR. SHAFRIR:   Well, the dumpster basically  
7           shadows the camper right now.  Because they take in  
8           and out the dumpster all the time.

9                   We park -- we have -- because of my son,  
10          we have a very large van to accommodate his needs, and  
11          that van does not go to the garage.  In the future I  
12          will come here again to modify the garage, but I don't  
13          have the money to do that right now.  So that  
14          renovation is insignificant.

15                  MR. MIETZ:   Now, during the four-month  
16          period, as far as what's going on with the  
17          construction, is that dumpster required for the entire  
18          four months that the camper will be there?

19                  MR. SHAFRIR:   Not my control.  That's part  
20          of permit for the contractor.

21                  MR. MIETZ:   It's a large structure out  
22          there as well, so that's something the board may be  
23          concerned about, you know, as it relates to having  
24          both of those items out there.

25                  Generally, a construction of this type, a

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2 roll-off dumpster as large as that usually isn't  
3 required for the whole duration of the construction.

4           MR. SHAFRIR: I don't know about size of  
5 the dumpster. But actually, if you drive along,  
6 there's another house with a similar construction with  
7 a dumpster twice the size.

8           So I don't know. I'm not a dumpster  
9 specialist. But what I do know is that they need the  
10 dumpster. I've seen the dumpster going back and forth  
11 multiple times already. It's filled right now, so  
12 they probably will take it out.

13           I can address the contractor and say, "Do  
14 you really need it every day?" So I can do that. I  
15 can voice your concern to him.

16           MR. MIETZ: Well, what is the status of  
17 the interior construction? Has all the demolition  
18 that needs to be done done and they are working on  
19 drywall? Or what's -- why don't you describe it a  
20 little bit.

21           MR. SHAFRIR: So -- good question -- the  
22 upstairs demolition is complete. The downstairs  
23 demolition right now there are two weeks -- they  
24 actually brought in, actually sitting on the front,  
25 this 11 feet high beam that is going to go into the

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2           ceiling to support the second floor. That only comes  
3           in, I was told today, end of next week.

4                       So when that goes in, there is going to be  
5           significant demolition in the kitchen area, the first  
6           floor. I'm assuming that they're waiting for that.  
7           And that probably would be the majority of the  
8           demolition.

9                       But we can ask, and I can definitely voice  
10          your concern to reduce the exposure of that. But it's  
11          really not my call.

12                      MR. MIETZ: Understood. Okay.

13                      Any other questions at this point?

14                      Okay. Thank you very much.

15                      Anybody in the audience that would like to  
16          speak regarding this application?

17                      Okay. There being none, the public  
18          hearing is closed.

19  
20          10A-07-16 Application of Irving Espada, agent, and  
21          Robert Morgan, owner of property located at 2470 East  
22          Avenue, for a Sign Variance from Section 207-31C(2) to  
23          allow a free standing identification sign to be 19.23  
24          sf in size in lieu of the maximum 16 sf allowed by  
25          code. All as described on application and plans on

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2 file.

3           MR. HAROLD: Good evening, everyone.  
4 Robert Harold, regional property manager for Morgan  
5 Management.

6           We're here to request a variance of the  
7 signage that we currently have through Town of  
8 Brighton Code to accommodate a larger sign with larger  
9 lettering that would be more visible to people driving  
10 down East Avenue.

11           Approximately four years ago, the sign  
12 that was in front of Oak Hill Terrace blew over in a  
13 windstorm. And at that time, I was the property  
14 manager of that property, and we had to obviously  
15 replace the sign so that we could be visible to people  
16 coming down East Avenue.

17           And it was kind of an impromptu thing, but  
18 we threw together a proposal, submitted it to the  
19 planning board and the architectural review board, and  
20 we found that the existing sign was in an RG&E right  
21 of way. So we were forced to move the sign back  
22 further onto the property, at that time not realizing  
23 it was actually obstructed by a streetlight pole  
24 that's at the corner of Clover Street and East Avenue,  
25 and also a telephone pole.

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2           So I've submitted some pictures, if you'll  
3 look at them, that if you drive down East Avenue, the  
4 sign is pretty much not visible whatsoever from the  
5 far end of East Avenue.

6           If you were heading in the east direction,  
7 you can't even see the sign until you are pretty much  
8 right at the corner of East Avenue and Clover Street,  
9 which makes it nearly impossible to identify our  
10 property.

11           Coming from the opposite direction, our  
12 next-door neighbors have some kind of overgrowth -- or  
13 I guess landscaping that's there, just trees and  
14 bushes and things that kind of I guess shield our  
15 property from theirs.

16           Unfortunately, coming in the opposite  
17 direction, you can't see the signage either until  
18 you're pretty much right on top of the property.

19           Our current signage, the lettering is  
20 4.25 inches tall. We're requesting to go a foot wider  
21 with the sign -- and again, an additional 3.23 square  
22 feet over what the current town code is -- so that we  
23 can accommodate a larger 6-inch lettering, which would  
24 be more visible.

25           And also, it will -- we kind of want to

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2       update the signage, make it a little nicer-looking to  
3       blend in to that neighborhood and kind of go with  
4       somewhat similar to what our neighbors have.

5           The property that's directly across the  
6       street from us has signage that's in excess of the  
7       town code right now. And also, the property that is  
8       diagonal has two signs, both exceeding the current  
9       16-square-foot requirement.

10           So we don't think that it would be  
11       detrimental to the neighborhood in any way of us, you  
12       know, updating our signage and making it a little  
13       larger so it's a little more visible and to  
14       potentially prevent a -- you know, a potential hazard  
15       of somebody trying to locate our property.

16           MS. DALE: The sign, will it be lighted?

17           MR. HAROLD: It is. It's indirectly lit  
18       right now. There's a couple of lights on the ground,  
19       which we're planning on reusing the existing lighting  
20       for the new signage.

21           MS. SCHWARTZ: I have a question. It's my  
22       pet peeve. I have a problem with signs that are lit  
23       from a ground light, because as you're driving down,  
24       the glare facing from the signs is horrible.

25           Are you shielding this in any way or

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2           tilting it in a way so that it really isn't going to  
3           interfere with drivers?

4           MR. HAROLD:   Yes.   The direction that the  
5           lighting actually is is the lights are angled back  
6           towards the property right now, where they're angled  
7           upwards towards the property as to not interfere with  
8           anyone driving by on the road where it would possibly  
9           obstruct their view.  They're actually angled in the  
10          direction of the building.  So anybody driving by on  
11          East Avenue or on Clover Street, the current lights  
12          that are there -- you can take a look at them in the  
13          evening -- they shouldn't obstruct or get in anyone's  
14          eyes.

15          MR. MIETZ:   Okay.  Any other questions?

16          Okay.  Thank you.

17          MR. HAROLD:   Thank you for your  
18          consideration.

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

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

24

25          10A-08-16 Application of Stephanie Marquez, ID

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2           Signsystems, Inc., agent, and the Harley School, owner  
3           of property located at 1981 Clover Street, for  
4           modification of a sign variance (10A-01-08) requesting  
5           the removal of the approved second building face sign  
6           and replacing it with a freestanding sign. All as  
7           described on application and plans on file.

8           MR. DUDLEY: Paul Dudley from ID  
9           Signsystems, 410 Atlantic Avenue, Rochester.

10          MR. GHORY: My name is Ward Ghory, and I  
11          live at 421 Cobbs Hill Drive. I'm the head of the  
12          school. Last name is G-H-O-R-Y.

13          Thank you for having us today.

14          We're here because we, as a school, need a  
15          sign that can be seen by visitors or perspective  
16          families from the street.

17          We are in the process of celebrating our  
18          hundredth year as a school and nearing our ninetieth  
19          year in Brighton at this location, and we are doing  
20          some re-branding to try to convey to the public the  
21          style school that we have.

22          We appreciate that we have currently a  
23          variance permitting two signs for the school, but what  
24          we'd like to do is to have a modification to that  
25          variance so that we would take down one of the signs

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2           and replace it with a sign by the street.

3                       Reason we need to do that is because the  
4           signs cannot be seen. They currently are more like  
5           entrance signs which show where the entrance is to the  
6           field house or the main entrance to the school than  
7           signs that identify the school as an institution from  
8           the street.

9                       I brought a binder that has some photos  
10          that were taken along the street so that you could see  
11          coming -- going south along Clover Street, first the  
12          sign at the field house, and second the sign at the  
13          entryway.

14                      We've tried to, as I said, reflect the  
15          branding that the school has had, and we've tried to  
16          balance the character, the residential character, of  
17          our street with the need as a school to be able to say  
18          who we are and what we do.

19                      And so we've done that in a couple of  
20          ways. One is that we've chosen to place the sign as  
21          facing the street as opposed to perpendicular to the  
22          street. And the decision was that we thought that  
23          this was a more dignified and restrained approach than  
24          having a sign that was perpendicular to the street  
25          which would in effect have two sides to it. It would

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2       be like adding two signs.

3           We're looking to have an economical  
4       approach here, so we've chosen to add some solar power  
5       to the sign that's consistent with Harley School's  
6       interests in sustainability.

7           And we've chosen to have the sign have the  
8       same color as the walls of the school and to have the  
9       Harley green color that we use for our branding.

10          We've -- the lights for this sign will be  
11       facing down towards the ground and will wash across  
12       the sign. There will be a brighter sign, a brighter  
13       green with the coloring of letters at the top and the  
14       darker green at the bottom.

15          And we would, as we do with all the  
16       signs -- all the lights at the school, have a terminus  
17       time for this so that it would be less interfering to  
18       the neighborhood.

19          The main concern we have is trying to  
20       convey what our school stands for, what we're trying  
21       to accomplish.

22          We do need to constantly replenish our  
23       enrollment. And the fact that people going by have  
24       difficulty identifying the school is the main reason  
25       we're here.

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2           MS. TOMPKINS WRIGHT: Can you tell me a  
3 little bit about the former road sign that was  
4 removed: When it was removed, what it said on it, and  
5 what the size of it was?

6           MR. GHORY: Yes. Now, it's -- we're going  
7 back into some history that's a little bit before my  
8 time. But the stories I've heard is the sign fell  
9 down. It was -- there is a duplicate sign that is in  
10 the interior of our school, and it had -- it was on  
11 some wood boards. It had some lettering on it. I  
12 don't know exactly the dimensions of it.

13           We're choosing to put the sign, current  
14 sign, in approximately the same location now.

15           I believe it came down in a weather...

16           MS. TOMPKINS WRIGHT: Rick, is there  
17 existing variances that were granted --

18           MR. DISTEFANO: I --

19           MS. TOMPKINS WRIGHT: -- predate?

20           MR. DISTEFANO: I couldn't tell you.

21           MR. MIETZ: It was quite a long time ago.

22           MS. SCHWARTZ: So this lighting that's  
23 going to wash down on it --

24           MR. GHORY: Yes.

25           MS. SCHWARTZ: -- will it be the least

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2           intrusive to any neighbors, do you feel?

3           MR. DUDLEY:   There will be no visible  
4           lighting source.

5           MR. MIETZ:   If you could just state your  
6           name.

7           MR. DISTEFANO:  I think he did already.

8           MR. MIETZ:   Oh.  I'm sorry.  I didn't hear  
9           it.

10          MR. DUDLEY:   It's Paul Dudley from ID  
11          Signsystems.

12                 There will be no visible light source when  
13          the sign is constructed.  The lighting source will be  
14          completely contained into the top of the sign.

15          MS. SCHWARTZ:  Right.  I understand.  But  
16          it will still be washing down on it.

17                 So -- but you don't feel it will be  
18          intrusive on any neighbors let's say across the  
19          street?

20          MR. DUDLEY:   No.  It's going to be LED  
21          style of sign.  It's a 12-volt system.  It will give  
22          enough light to light the sign face but not project  
23          light from an advertisement style.

24          MS. SCHWARTZ:  Okay.  And just for  
25          curiosity, in normal watts, what would this sort of be

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2           equal to?

3                   MR. DUDLEY:   It would be the equivalent  
4           across the whole sign of about 100-watt volt.

5                   MS. SCHWARTZ:   Okay.

6                   MR. MIETZ:   And you do have the ability  
7           with those LEDs to adjust the brightness of them as  
8           well?

9                   MR. DUDLEY:   Yes.   We've built in  
10          adjustability in terms of light and direction within  
11          the housing.

12                   MR. MIETZ:   And basically how far from the  
13          return at the top is the sign, least estimate?   I  
14          guess you have it --

15                   MR. DUDLEY:   It's about 5 inches I  
16          believe.

17                   MR. MIETZ:   Okay.   So basically it's going  
18          to be -- this lighting will be acting like a wall  
19          washer in a sense, and it really won't be projecting  
20          off the sign really in any way because there will be  
21          no way for it --

22                   MR. DUDLEY:   That's correct.   And there  
23          wouldn't be enough light output to project --

24                   MR. MIETZ:   To send it out towards the  
25          road.   Okay.

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2                   Okay. Good. Are there any other  
3 questions?

4                   MR. DISTEFANO: Just for clarification,  
5 going back to the original variance that was granted a  
6 few years back, the gymnasium sign will be coming  
7 down. That's the intent?

8                   MR. GHORY: Yes. That is our proposal, is  
9 to take the lettering off of the, you know, the cover  
10 of the door to the gymnasium. And we would remove  
11 those letters and patch whatever holes there are, and  
12 paint it, and it would be gone.

13                   MS. DALE: So the -- this drawing here, it  
14 has some information on it about, you know, moving  
15 some trees and adding a construction entrance. Do you  
16 think this was --

17                   MR. DUDLEY: That's historical data from  
18 an old print, yes.

19                   MR. MIETZ: Good question.

20                   Okay. Any other questions? Questions?

21                   Okay. Good. Gentlemen, thank you.

22                   MR. GHORY: Thank you.

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

25                   MR. KOEGEL: Thank you, honorable board,

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2       staff members.

3           My name is Robert Koegel, K-O-E-G-E-L. I  
4       live at 1960 Clover Street along with my wife. I've  
5       lived there 26 years; and then another two years  
6       before that in a separate ownership, which is a  
7       separate story not worth your time now.

8           I've got to say that, right off the bat,  
9       it's interesting that this sign comes up and it says  
10      on it, "Harley School, Established in 1917," and  
11      they're celebrating their centennial. And my house  
12      was built in 1917, so I'll be having a big party and  
13      celebrating too, but I won't be putting up a sign  
14      that's 6 feet tall -- that's 6 inches taller than I  
15      am -- and 9 1/2 feet long for good which says, "The  
16      Koegel House," and branding it the whole thing that  
17      way.

18           I live in a residential neighborhood, and  
19      it has that character, and the houses have that.  
20      There are no branding going on anywhere.

21           There is one street sign down at the  
22      Baptist church I looked at today which is a small  
23      wooden sign, very discreet, that makes it clear what  
24      it is there.

25           There is -- the idea that they need to

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2       have a big sign there to me is foolish. And the  
3       notion that we would support the notion of a branding  
4       of an educational institution on a residential -- and  
5       Harley School is a fantastic institution. It doesn't  
6       need a sign to get people to be there and to know who  
7       it is and how great it is.

8           It's just the simple thing that somebody  
9       came up with, and it has no bearing, and it makes no  
10      sense.

11          So let's get back to the signs the way  
12      they were. I was there at the time that sign was  
13      there. It was a tall post, and it had a sign that  
14      went out perpendicular to the road. I can't tell you  
15      the exact size, but a few feet by a few feet. It was  
16      wooden. It had the beautiful Harley logo on it with  
17      the acorn and the oak leaf. And it was quite lovely  
18      and functional. No one got lost.

19          It came down, and for some reason they  
20      didn't want to put it up again and then started down  
21      this road of signs, signs, signs, reason probably  
22      being branding.

23          So the most minimal intrusive means of  
24      taking care of the issue of the sign is to put the  
25      sign back that they had. I have no problem with it.

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2           It's quite lovely. So let's go with that.

3                       Now, if we had to go to something more  
4           massive like they're proposing, then I'd say it's a  
5           shame that they don't realize what they did really  
6           beautifully.

7                       They built I don't know how many years ago  
8           a series of stone walls in the front which are  
9           gorgeous. Every time I rake out there, every fall, I  
10          admire them. Every time I carry sticks up to the  
11          street, which is often in my yard, I admire them.  
12          It's a beautiful, beautiful series of curved,  
13          hand-built stone walls, fieldstone, round, beautiful.

14                      Now, rather than mimic -- not mimic --  
15          make that, make a stone base like that, and put it on  
16          this triangular box sign, they come up with this  
17          phoney-looking thing, looks like a corporate  
18          headquarters thing. It's rectangular. It's  
19          hard-edged. There's all that little fake stone on it.  
20          It looks terrible, at least in the rendering.

21                      So if they had to do it, they could have  
22          had a means of doing it and it would have been more  
23          acceptable. But they didn't, and the sign is too big  
24          and it's not doing the job it can do.

25                      And finally, there's the illumination

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2       factor. This board found eight years ago almost to  
3       the day that there are -- that an illuminated sign is  
4       not in keeping with the neighborhood; it's an improper  
5       thing.

6           In this residential district, there are no  
7       illuminated freestanding signs. You found that eight  
8       years ago, and it's still so.

9           And in that there, you approved variances  
10      for two signs that currently existed. You did not  
11      allow a third. The two being the large illuminated  
12      arcade sign over their front entrance, which is quite  
13      visible, and then they have another one over by the  
14      auditorium -- or the gym, which apparently they want  
15      to take that down and put this one up instead.

16           So it is not in keeping with the  
17      neighborhood at all.

18           The illumination is not right, and it  
19      would wash down through the whole sign. And it's out  
20      of keeping with the neighborhood. I don't want to  
21      look at it, frankly.

22           Finally, the last thing, in case anything  
23      were to happen with the illumination, I do call to  
24      your attention -- I just don't see it in the  
25      application material anywhere, but it is well-noted in

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2           the last variance -- that all lights over at Harley  
3           are supposed to go off at 10:00. And so if anything  
4           were allowed, it would have to go off consistent with  
5           what you've allowed, at 10:00.

6                        So I trust you will rule accordingly. I  
7           appreciate your time, and I think Anne would like to  
8           speak.

9                        Thank you.

10                      MR. MIETZ: Thank you.

11                      MR. KOEGEL: Do you have any questions for  
12           me?

13                      MR. MIETZ: Nope. Thank you very much.

14                      MS. TOWNSEND: Hi. I'm Anne Townsend. I  
15           live at 1920 Clover Street. I live directly across  
16           the street from Harley, a little bit to the side.

17                      I agree with much of what Robert said, and  
18           I am concerned that this is more of a branding sign  
19           than a functional sign.

20                      I personally like the sign that they have  
21           over the arcade entrance. It is a lighted sign.

22                      I've known Harley for many years, so I  
23           know it's there, but I think people can see it.

24                      I think this sign is very corporate  
25           looking, and I appreciate that they're considering the

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2 neighbors in placing it parallel to the street and  
3 doing the downward lighting.

4           However, I feel that it is very corporate.  
5 And I don't think it really directs people to the  
6 school, because I think coming either way, you're not  
7 going to be able to see that it says "The Harley  
8 School" until you're right on top of it.

9           I was there also when they had the  
10 beautiful wooden sign. I know one year it was stolen,  
11 and another year I think there may have been an  
12 accident that knocked down the post and -- but I'm not  
13 exactly sure about that.

14           And I'm also a bit concerned about the  
15 safety. I know -- I know it's not very wide; but I  
16 know, coming out of that parking lot, it can be very  
17 difficult to look to the left. And traffic comes very  
18 fast there. A lot of times during school times and  
19 special events, it's very busy. And there have been a  
20 handful of minor accidents there due to traffic and  
21 maybe people being distracted, and I worry about this  
22 maybe being another distraction.

23           So I think that's what I have to say.

24           MR. MIETZ: Okay. Thank you very much.

25           Is there anyone else in the audience who

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2 would like to speak regarding this application?

3           MR. DUDLEY: Can I just clarify a point?

4           MR. MIETZ: Is it something different than  
5 what was represented before? If it's a technical  
6 thing or something --

7           MR. DUDLEY: Yeah. It's a --

8           MR. MIETZ: All right. Let's try it and  
9 quickly.

10          MR. DUDLEY: I just wanted -- Paul Dudley  
11 from ID signs.

12                   I just wanted to clarify the base  
13 construction finish in a bit more detail. The  
14 rendering is generic, but the notes on the drawings  
15 are quite clear. We're going to use the same mason  
16 that built the stone walls for the original walls at  
17 the Harley School to actually clad the base of this  
18 sign.

19                   So we've spent a lot of time researching  
20 that. We even found the field that the original stone  
21 came from; and the mason, who is the same mason, is  
22 going to go back to that field, harvest the stones he  
23 wants to clad with the base, and therefore would be  
24 sympathetic to the existing walls.

25                   Just wanted to clarify that.

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2           MR. MIETZ: Yeah. That's fine.

3           MR. KOEGEL: I'll keep it to the point.

4           MR. MIETZ: Yeah. We don't want to make  
5 it a debate.

6           MR. KOEGEL: I know, but this is a factual  
7 issue.

8           MR. MIETZ: Very quickly. We'll give you  
9 a little latitude here.

10          MR. KOEGEL: The point is is that he's  
11 referring to the stone work that apparently they're  
12 doing by the flagpole, which may be being done by the  
13 same person, but it's very different.

14                 I have not had a chance to look that over  
15 whatsoever, but if it's anything what it looks like on  
16 the rendering, it certainly doesn't look like the  
17 beautiful stone walls.

18                 So I don't agree that they're in keeping  
19 with the beautiful stone walls.

20          MR. MIETZ: Well, let me ask a question as  
21 long as I let you come back up.

22          MR. KOEGEL: Sure.

23          MR. MIETZ: So let's say if it was, does  
24 that make any difference to you, how you feel about  
25 the sign?

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1                   BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2                   MR. KOEGEL: Beautiful stone?

3                   MR. MIETZ: Yes.

4                   MR. KOEGEL: Yes, it does.

5                   Thank you.

6                   Procedurally, do you deliberate and then  
7 vote tonight, or do you --

8                   MR. MIETZ: Yes.

9                   MR. KOEGEL: Thank you.

10                  MR. MIETZ: Okay. Anyone else on this?

11                  Okay. The public hearing is closed.

12                  Thanks.

13

14                  10A-09-16 Application of the Jewish Home and Infirmary  
15 of Rochester, NY, owner of property located at 2021  
16 Winton Road South, for a Temporary and Revocable Use  
17 Permit, pursuant to Section 219-4 to install a 40 ft.  
18 by 15 ft. Banner on the north face of the building for  
19 a period of two years where not allowed by code. All  
20 as described on application and plans on file.

21                  MR. PLANTHOLT: Good evening. My name is  
22 Mark Plantholt. I live at 7 Ashview Drive in  
23 North Chili, New York. I work at the Jewish Home of  
24 Rochester. I'm the vice president of facility  
25 services.

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1                   BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2                   And I'm here tonight to ask to get  
3 approval for our temporary and revocable use permit,  
4 because we want to put up a banner, a temporary  
5 banner, on the north face of the north stair tower;  
6 and the purpose is to commemorate a new construction  
7 we have on our greenhouses and a renovation of our  
8 Jewish Home that we're doing now and currently in the  
9 process.

10                   This banner is very similar to the one  
11 that was approved in 2010 which was to commemorate our  
12 90th anniversary.

13                   And you've got some -- I think the  
14 drawings are there to show it was a vinyl material.  
15 It's going to be mechanically adhered to the building.  
16 It will be very taught. And there's some description  
17 I think on the sign itself.

18                   MS. SCHWARTZ: And this is going to be up  
19 for two years?

20                   MR. PLANTHOLT: Yes. The construction --  
21 we're just trying to take advantage of the excitement  
22 created by the construction; and that's set to go at  
23 least another year for the greenhouses, which will  
24 finish in 2017, and then we'll start the renovation of  
25 the Jewish Home at that point afterwards, and that

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2           will carry through for another year. So we want to  
3           keep the banner up through then.

4           MS. SCHWARTZ: So you're really trying to  
5           market this. This is more a marketing sign.

6           MR. PLANTHOLT: Marketing, and just, you  
7           know, inform the public just to let them know what  
8           we're doing. And sort of celebrate it. I mean, it's  
9           more that angle than anything else.

10          MS. DALE: So it's two years from now, not  
11          two years from when construction is completed?

12          MR. PLANTHOLT: That's correct. And that  
13          two years falls in line with the construction that's  
14          going on and the renovation inside the building.

15          MR. MIETZ: Okay.

16          MS. SCHWARTZ: Is the other banner as  
17          large as this one? Because I don't recall honestly.

18          MR. PLANTHOLT: Yes. It's going to be the  
19          same size as what was approved the last time.

20          MR. DISTEFANO: I just have a question for  
21          clarification. My understanding is there will be a  
22          series of banners. Correct? It won't be the same  
23          banner every time?

24          MR. PLANTHOLT: I believe that's correct.

25          MR. DISTEFANO: The whole two years it

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016  
2       won't be the same banner: Let me put it that way.

3           MS. KNICKERBOCKER: Hi. I'm Jane  
4       Knickerbocker with a K. I live at 13 East Park Road  
5       in Pittsford. I'm the head of marketing and  
6       communications, so I'm behind this.

7           We're looking at changing the creative of  
8       the banner as we lead up to opening the greenhouses,  
9       and then when we open the tower.

10          And again, it's really more a community  
11       engagement. There's been so much excitement about  
12       this \$87 million project.

13          And by the way, we don't have a sign on  
14       our building. Before I started working there a year  
15       ago, I just thought it was the big brown building that  
16       had something to do with being Jewish.

17          So we're really proud of this. That's the  
18       intent, that there be three different signs throughout  
19       the two years.

20          MS. SCHWARTZ: But do we get to see those?

21          MR. DISTEFANO: I'll let -- the way it was  
22       explained to me is that what you have is basically the  
23       first one that's going up. The other two have not  
24       been designed yet, but the design is going to be  
25       keeping that same nature of this one.

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1                   BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2                   MS. KNICKERBOCKER: Yes.

3                   MR. DISTEFANO: So that was my  
4 understanding. And if that's different --

5                   MS. SCHWARTZ: It's more administrative  
6 kind of --

7                   MR. DISTEFANO: The same type of theme  
8 that you see in this one, but it might have a  
9 different message to it.

10                  MS. SCHWARTZ: Right. But they would come  
11 to you --

12                  MR. DISTEFANO: That's up to the board, if  
13 you want to let -- you know.

14                  MS. CORRADO: Will there be any lighting  
15 on the sign, any ground up lighting onto the building?

16                  MS. KNICKERBOCKER: No. We didn't  
17 initially plan that. Although, recently it did occur  
18 to me at nighttime -- which, when you drive home in,  
19 you know, December, it's going to be dark -- it would  
20 be nice to have.

21                  But because that wasn't part of our  
22 application today, that's not the current request.

23                  MS. TOMPKINS WRIGHT: And how long would  
24 this version of the sign be up?

25                  MS. KNICKERBOCKER: We anticipate, if we

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           get approval -- and it takes time to print -- it could  
3           be as early as November or December.

4                   And then we'll see how the weather holds  
5           up. We don't want to ruin the sign, so we would take  
6           it down when the weather became inclement, and then  
7           put it up when the weather gets better in June -- I'm  
8           just kidding -- March or April, that same sign.

9                   MR. MIETZ: But how long before you  
10          anticipate changing over to the second sign?

11                   MS. KNICKERBOCKER: We open the  
12          greenhouses in September, so we anticipate in  
13          August -- let's say July/August we'd have something  
14          teasing the opening of the greenhouses that is this  
15          new era in taking care of long-term-care patients in  
16          these small homes.

17                   MS. DALE: So what's it made out of that  
18          you're worried -- we have to worry that it's going  
19          to --

20                   MR. MIETZ: Vinyl.

21                   MS. DALE: -- the weather is going to -- I  
22          know, but I wasn't worried that the weather was going  
23          to make it look crummy until --

24                   MS. KNICKERBOCKER: Oh. Right. No, we  
25          would immediately take it down.

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           No, it's very thick vinyl, and it's being  
3 adhered to the wall so no strong wind will take it  
4 away. We even have a plan B with grommets to tie it  
5 if we had to. But we're -- just in case -- I don't  
6 know -- there was a rock storm, we would take it -- we  
7 would take the sign down.

8           MR. PLANTHOLT: The sign will actually  
9 have grommets along the edges of the sign, too, so  
10 that additional anchors can be installed to hold it  
11 tighter to the building.

12           So we -- we didn't have any trouble the  
13 last time with the sign blowing down. We didn't have  
14 to go to that next level, so we don't anticipate --

15           MS. KNICKERBOCKER: Yeah. The vendor does  
16 not expect it to blow down. The grommets are just  
17 there as a plan B. And they would not -- no adhering  
18 things would be visible at all. They're all under the  
19 sign and attached to the wall, so you wouldn't see any  
20 eyes.

21           MS. DALE: And is this the same location  
22 as the sign you had before?

23           MS. KNICKERBOCKER: Yes. And it is so  
24 large because Route 590, you know, is -- it's going to  
25 look small when you're driving by on 590 very quickly.

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           That's where it's facing.

3                   MS. TOMPKINS WRIGHT:    Would you be  
4           agreeable to limiting it to one year and only this  
5           sign and coming back in to have the future designs  
6           approved after they've been approved an additional  
7           time?

8                   MS. KNICKERBOCKER:    We'd be open to that.

9                   MS. TOMPKINS WRIGHT:    Has the  
10          architectural review board -- do they -- they don't  
11          look into it?

12                   MR. MIETZ:    It's a temporary sign.

13                   Okay.    Any other questions?

14                   MR. JONES:    Will all three signs be the  
15          same dimension?

16                   MS. KNICKERBOCKER:    Yes.

17                   MR. JONES:    Would you be agreeable to a  
18          date certain rather than just two-year or one-year,  
19          that you could actually just say completion by  
20          "October 5th, 2018," for example?

21                   Because I think we get into a little bit  
22          of an issue of when the actual start time is, being  
23          you asked for just two years.

24                   MS. KNICKERBOCKER:    I'm sorry.    I didn't  
25          catch the very beginning of that.    Can you repeat the

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1           BRIGHTON ZONING BOARD OF APPEALS - 10/5/2016

2           question? I'm sorry. It's hard to hear.

3           MR. JONES: Yes. Would you be agreeable  
4           to a date certain when the sign would have to be down,  
5           rather than saying just two years? Could you just  
6           give us a date that the sign has to be down by?

7           MS. KNICKERBOCKER: Oh. Certainly. We  
8           could even say, "There's three signs. Here what we  
9           suggest: Timeframe, timeframe, timeframe."

10           We already have that generally in mind.  
11           I'd have to go back and look at the dates.

12           MR. MIETZ: Okay. Very good. Any other  
13           questions? Questions?

14           Okay. Thank you.

15           Is there anyone in the audience who would  
16           like to speak regarding this application?

17           There being none, the public hearing is  
18           closed.

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PROCEEDINGS HELD BEFORE THE ZONING BOARD OF APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK ON OCTOBER 5, 2016, COMMENCING AT APPROXIMATELY 7:15 P.M.

October 5, 2016  
Brighton Town Hall  
2300 Elmwood Avenue  
Rochester, New York 14618

PRESENT:

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

DAVID DOLLINGER, ESQ.  
Town Attorney

RICK DISTEFANO  
Secretary

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

Reported By: LAUREN E. SHERWOOD  
Edith Forbes Court Reporting  
21 Woodcrest Drive  
Batavia, New York 14020

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Application 8A-05-16

Application of Alice Kanack, owner of property located at 2077 South Clinton Avenue, for Area Variances from Section 205-6 to allow a building addition to 1) extend 25 ft. Into the 50 ft. Front setback required by code, and 2) extend 17 ft. Into the 30 ft. Side setback required by code. All as described on application and plans on file. TABLED AT THE AUGUST 3, 2016 MEETING - PUBLIC HEARING REMAINS OPEN

Motion made by Ms. Tompkins Wright to approve Application 8A-05-16.

**FINDINGS OF FACT:**

1. The granting of the requested variance would not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.

While the property borders a residential zone, the area along South Clinton is commercial in nature and the neighboring property is owned and operated by RG&E.

Further, the removal of the curb cut along Havens Road will likely reduce noise and lighten services to the adjacent residential properties.

2. The requested variance is not substantial.

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While applicant is proposing to reduce the setback to 50 percent of what is required for both the front and side setback, building along this commercial stretch of South Clinton are not consistent in size, shape or setback, and applicant's plan is landscaped to provide screening.

As expanded, the building's size and location will not appear out of character with nearby commercial buildings along South Clinton Avenue, along the south front setback along Havens Road and the west side setback adjacent to a residential property.

Of note, Havens Road is an 80-foot-wide right of way, so the front setback will appear much larger.

3. The benefit sought by the applicant cannot reasonably and directly be achieved by any other method and is the minimum necessary to grant relief from applicant's difficulty.

Applicant testified that the plan submitted reflects the minimum conceptual performance hall, which has geometric requirements dictated by size of the school and stage and not simply by applicant's desires.

Further, the use requires a significant number of parking spaces which restricts the areas in which

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applicant can expand the building.

**CONDITIONS:**

1. Approval only applies to the building expansion as detailed in the application on file and the testimony given.

2. All necessary architectural review board and planning board approvals shall be obtained.

(Seconded by Ms. Corrado.)

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

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

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Application 10A-01-16  
Application of 1850 SWR, LLC, owners of property  
located at 1850 South Winton Road, for modification of  
a sign variance (11A-11-15) requesting relocation and  
change of color of the approved sign. All as  
described on application and plans on file.

Motion made by Ms. Dale to approve  
Application 10A-01-16

**FINDINGS OF FACT:**

1. In November 2015, the applicant received approval for a variance allowing for signage on two building faces. Since that time, the applicant has received feedback from concerned customers about the ability to find the applicant's headquarters of this site.
2. The existing and approved color of the two signs is green. Changing the sign color from green to white will provide more contrast to the brick building and the surrounding trees, and will provide improved visibility to people visiting the building.
3. The repainting of the existing approved signs will not change the overall effect on the building or the neighborhood.
4. Changing the location of one of the signs will

1  
2 also not change the overall effect on the building or  
3 the surrounding area. The requested new location is  
4 very close to the existing location and is only a few  
5 feet away around the corner of the building. The new  
6 location remains at the same height placement and is  
7 still the front corner of the building -- it is the  
8 same side of the building, just a different corner --  
9 and it is actually the same sign that's just being  
10 moved.

11 6. The new sign location will improve visibility of  
12 the sign as there's a clear line of sight versus the  
13 existing partially blocked visibility due to trees.

14 The sign will also face the 590 north exit ramp  
15 to Winton Road and provide assistance to travelers en  
16 route from that direction.

17 **CONDITIONS:**

18 1. Approval granted to the sign variance  
19 modifications as per the application submitted and  
20 testimony.

21 2. All necessary architectural review board and  
22 planning board approvals shall be obtained.

23 (Seconded by Ms. Schwartz.)

24 (Ms. Tompkins Wright, yes; Ms. Dale, yes;

25 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker

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Leit, yes; Ms. Schwartz, yes; Mr. Jones, yes.)  
(Upon roll call, motion to approve with  
conditions carries.)

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Application 10A-02-16  
Application of Michael and Jean Radler, owners of  
property located at 249 Valley Road, for an Area  
Variance from Sections 203-16A(4) and 203-2.1B(3) to  
allow a detached garage to be constructed 3 ft. from a  
side lot line in lieu of the minimum 5 ft. required by  
code. All as described on application and plans on  
file.

Motion made by Mr. Mietz to approve  
Application 10A-02-16 for an area variance to  
allow a detached garage as modified to be  
constructed 2 1/2 feet from the side lot line  
in lieu of the minimum 5 feet required by code.

**FINDINGS OF FACT:**

1. The proposed location of the garage is in the exact location of the current detached structure on the north side other than the 6-inch overhang on the proposed garage.
2. Due to the layout of the driveway, an attempt to shift the garage would make access to it very difficult due to the alignment of the house.
3. No negative effect on the character of the neighborhood will result from this variance since the location has not interiorly changed and other garages

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are similarly located close to the property line within the neighborhood.

**CONDITIONS:**

- 1. This is based on testimony given and plan submitted as to the specific location and size of the garage.
- 2. All necessary building permits shall be obtained.
- 3. The garage will be in harmonious color to the house.

(Seconded by Ms. Baker Leit.)  
 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
 Leit, yes; Ms. Schwartz, yes; Mr. Jones, yes.)  
 (Upon roll call, motion to approve with  
 conditions carries.)

1  
2 Application 10A-03-16  
3 Application of Bell Atlantic Mobile of Rochester L.P.  
4 (Verizon Wireless), lessee, and Metro Professional  
5 Building Partnership, owner of property located at 85  
6 Metro Park, for an Area Variance from Section  
7 207-42C(1)(b) to allow for telecommunication support  
8 equipment to be located outside, adjacent to the  
9 building, where not allowed by code. All as described  
10 on application and plans on file.

11 Motion made by Ms. Schwartz to approve  
12 Application 10A-03-16.

13 **FINDINGS OF FACT:**

14 1. The area for the equipment is in the rear of the  
15 parking lot of an industrial office park; and  
16 therefore, the character of the area will not be  
17 impacted by the outside location of the  
18 telecommunications equipment.

19 2. The enclosing of equipment adjacent to the  
20 building would be very costly; and therefore, any  
21 equipment cannot be in the building because it is an  
22 occupied commercial business.

23 **CONDITIONS:**

24 1. This variance only applies to the plans of the  
25 telecommunications support equipment as described in

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the testimony and written application.

2. The equipment will be painted the color of the adjacent building, mitigating the variance.

3. Seven trees will be planted in a semicircle fashion surrounding the equipment.

4. All building permits shall be obtained.

(Seconded by Ms. Baker Leit.)

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

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

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Application 10A-04-16  
Application of David Burrows, architect, and Marc Polverino, owner of property located at 59 Avalon Drive, for modification of an approved variance (9A-04-89) allowing for the partial conversion of a 2 car attached garage which was granted side and rear setbacks of 2 ft. each, into living quarters. All as described on application and plans on file.

Motion made by Ms. Baker Leit to approve  
Application 10A-04-16.

**FINDINGS OF FACT:**

1. The applicant seeks to convert half of the garage into a bedroom, living room, and bathroom for his 91-year-old mother.

The current 16-foot overhead garage door will be replaced by an 8-foot garage door, installed wall and window.

2. No other alternative can alleviate the difficulty of housing this elderly woman on a first-floor level and produce this desired result.

3. No unacceptable change in the character of the neighborhood and substantial detriment to nearby properties is expected to result since the change will not be noticeable from the street.

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4. The health, safety, and welfare of the community will not be adversely affected by the approval of this variance request.

**CONDITIONS:**

1. This variance will only apply to the structure as described in the application and testimony given; in particular, the proposed division of the garage space shall be that as shown on plan submitted.

2 All utilities including gas, electric and water will be shared with the main house.

3. No kitchen facilities shall be installed into this newly-renovated living space.

4. The attached breezeway shall be converted into livable space per New York State building code.

5. All necessary building permits and architectural review board approvals shall be obtained.

(Seconded by Ms. Schwartz.)

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

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

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3 Application 10A-05-16

4 Application of 2600 Elmwood, LLC, owner of property  
5 located at 2600 Elmwood Avenue, for modification of a  
6 use variance (5A-07-97 and 12A-04-13) to allow for  
7 "CoreLife Eatery," a fast casual restaurant to occupy  
8 the entire building, replacing a bagel restaurant, a  
9 frozen yogurt restaurant and a short order eatery as  
10 previously approved. All as described on application  
11 and plans on file.

12 Motion made by Ms. Corrado to approve

13 Application 10A-05-16.

14 **FINDINGS OF FACT:**

15 1. Per applicable zoning regulations, the applicant  
16 is deprived of all economic use and benefit from the  
17 property in question.

18 Per the applicable use, variance allows for the  
19 sale of bagels, frozen yogurt, salads, nonalcoholic  
20 drinks and similar. This use will continue at this  
21 location.

22 2. The alleged hardship is unique and does not  
23 apply to a substantial portion of the district or  
24 neighborhood; in fact, the adjacent commercial  
25 properties are set in the appropriate business

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district. Property in question abuts a residential district and bears a burden of transitioning between the two properties.

3. The requested use variance, if granted, will not alter the character of the neighborhood.

The surrounding properties to the east are primarily similarly functioning as restaurants and retail. Residential properties to the west and north have long been accustomed to a neighboring restaurant.

The proposed use is not loud or visually destructive, nor will there be obnoxious odors produced by frying.

4. The alleged hardship has not been self-created. The applicant wishes to expand into the town of Brighton establishing a restaurant that is not significantly different in scale and type from the restaurants that previously occupied this location; in fact, the proposed use is less intense.

**CONDITIONS:**

1. The use approved in this variance is only for that which was described in the application submitted and testified to during the meeting.

2. The hours of restaurant operation will be 11:00 a.m. to 9:00 p.m. The hours of operation for

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the supplemental community room will be limited to 8:00 a.m. to 11:00 a.m., prior to restaurant service hours.

3. Business deliveries and trash pick up will occur between normal business hours of 7:00 a.m. and 5:00 p.m. Trash receptacles will be kept enclosed.

4. No emission of obnoxious gases or other odorous matter in such quantities as to be detected outside the building shall be permitted.

Restaurant management will strictly adhere to proper ventilation and cleaning and maintenance of the emission control system.

5. No fried foods shall be permitted.

6. There will be no drive-thru services provided.

7. Maximum seating including inside and outside shall not exceed 99.

8. All necessary architectural review board and building permits shall be obtained.

(Seconded by Ms. Tompkins Wright.)

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

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

**EDITH FORBES COURT REPORTING SERVICES**

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Application 10A-07-16

3

Application of Irving Espada, agent, and Robert

4

Morgan, owner of property located at 2470 East Avenue,

5

for a Sign Variance from Section 207-31C(2) to allow a

6

free standing identification sign to be 19.23 sf in

7

size in lieu of the maximum 16 sf allowed by code.

8

All as described on application and plans on file.

9

Motion made by Mr. Mietz to approve

10

Application 10A-07-16.

11

**FINDINGS OF FACT:**

12

1. Due to an RG&E right of way, the sign must be

13

placed further from the road than desired for

14

visibility along East Avenue.

15

2. The variance request is not substantial; and due

16

to the oval design of the sign and location related to

17

the street, it has been designed with the appropriate

18

letter size to meet the desired result.

19

3. No negative affect on the character of the

20

neighborhood will result in the approval of this sign

21

since other signs of similar or larger size appear

22

along this section of East Avenue.

23

**Conditions:**

24

1. All architectural review board and planning

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board approvals shall be obtained.

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2. This variance is based on the sign as specified in the plan submitted and testimony given, as based on both size and location.

(Seconded by Ms. Baker Leit.)

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

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

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Application 10A-08-16  
Application of Stephanie Marquez, ID Signsystems,  
Inc., agent, and the Harley School, owner of property  
located at 1981 Clover Street, for modification of a  
sign variance (10A-01-08) requesting the removal of  
the approved second building face sign and replacing  
it with a free standing sign. All as described on  
application and plans on file.

Motion made by Ms. Schwartz to approve  
Application 10A-08-16.

**FINDINGS OF FACT:**

1. There is no visible sign for the Harley School from the road.
2. The applicant is removing a previously-approved building face sign to reduce the impact of more signage.
3. The proposed sign needs to be placed where planned because, one, there an easement that extends along the area, and two, the location offers the greatest visibility for motorists.
4. The base of the sign is designed to match those materials on the school itself and the decorative wall in the front area.
5. There is no other alterative that can alleviate

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the difficulty and produce the desired result.

**CONDITIONS:**

1. This variance is only for the freestanding sign as presented in testimony and written application.

2. The lighting of this sign is limited up to 10:00 p.m.

3. The sign on the field house must be removed.

4. All necessary architectural review board and planning board approvals shall be obtained.

(Seconded by Ms. Tompkins Wright.)

(Ms. Tompkins Wright, yes; Ms. Dale, yes; Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker Leit, abstain; Ms. Schwartz, yes; Mr. Jones, yes.)

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

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Application 10A-09-16

3

Application of the Jewish Home and Infirmary of

4

Rochester, NY, owner of property located at 2021

5

Winton Road South, for a Temporary and Revocable Use

6

Permit, pursuant to Section 219-4 to install a 40 ft.

7

by 15 ft. Banner on the north face of the building for

8

a period of two years where not allowed by code. All

9

as described on application and plans on file.

10

Motion made by Ms. Baker Leit to approve

11

Application 10A-09-16

12

**FINDINGS OF FACT:**

13

1. During the period of construction of the

14

greenhouses and renovation of the still nursing

15

facility, the applicant requests a temporary and

16

revocable use permit for a 40-foot by 15-foot vinyl

17

banner on the north face of the building.

18

2. Due to the temporary nature of this banner,

19

there will be no substantial change to the

20

neighborhood.

21

3. There will be no affect on government facilities

22

or the general health, safety, or welfare of the

23

community, and no increase of population density.

24

**CONDITIONS:**

25

1. The temporary revocable use permit will only

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apply to the banner design described in the application and testimony given.

2. The temporary use permit shall only extend until October 5th, 2017, and will only apply to the one banner design presented.

3. The granting of this temporary-use permit will not result any construction or enlargement of any structures.

4. The banner will not be lit.

(Seconded by Ms. Schwartz.)

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

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

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Application 10A-06-16  
Application of Shai Shafrir and Sharon Shafrir, owners  
of property located at 2850 Elmwood Avenue, for a  
Temporary and Revocable Use Permit pursuant to Section  
219-4 to allow a camping trailer to be parked in the  
driveway for a 4 month period where not allowed by  
code. All as described on application and plans on  
file.

Motion made by Ms. Dale to approve  
Application 10A-06-16

**FINDINGS OF FACT:**

1. The applicant's home is currently under construction as part of an environmental modification project to make the house acceptable for the applicant's medically-fragile 9-year-old son. The trailer will be able to provide a safe and quiet environment for him to rest after school while construction workers are working on the house.
2. The camping trailer will be parked in the applicant's driveway in front of the garage, with the construction dumpster partially blocking the view of the trailer as the dumpster is close to the road. The trailer will be between the dumpster and the garage.
3. The requested time duration for the permit is

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the minimum relief necessary, as the construction work at the house began on September 1st and is scheduled to be completed within 12 weeks.

The applicant will remove the trailer as soon as completed; but as the project requires a specially-designed elevator and installation, there is reason to believe that an additional four weeks may be needed.

4. Granting the request will have no increase in population density and no affect on available governmental facilities, and will not result in the substantial change of character or be detrimental to surrounding properties.

5. The trailer is powered by electricity from the house, or propane gas in the event of a power outage, and the presence in the applicant's driveway will not endanger of health, safety, or general welfare of the community.

The granting of the request is proper, as it allows the applicant to provide quality care to their son while the home undergoes environmental modification project needed to make the house accessible and safe to live.

**CONDITIONS:**

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1. The applicant shall remove the camping trailer as soon as the construction project is completed or by February 5th, 2017, whichever is sooner.

2. The camping trailer will be located in the driveway as per the plan submitted and the testimony given.

(Seconded by Mr. Jones.)

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

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

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C E R T I F I C A T I O N  
STATE OF NEW YORK:  
COUNTY OF GENESEE:

I, LAUREN E. SHERWOOD, do hereby certify that I reported in machine shorthand the above-styled cause; and that the foregoing pages were typed by computer-assisted transcription under my personal supervision and constitute a true record of the testimony in this proceeding;

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

WITNESS my hand in the City of Batavia, County of Genesee, State of New York.

  
-----  
LAUREN E. SHERWOOD  
Freelance Court Reporter and  
Notary Public No. 01SH6252644  
in and for Genesee County, New York

**\$87** [1] - 91:12  
**'18** [1] - 41:16  
**'90s** [1] - 50:11  
**01SH6252644** [1] - 122:24  
**1** [23] - 2:22, 53:6, 98:6, 98:15, 100:4, 101:11, 102:18, 104:16, 105:5, 106:14, 106:24, 108:13, 109:6, 110:15, 111:21, 113:12, 113:24, 115:13, 116:4, 117:13, 117:25, 119:13, 121:2  
**1/2** [7] - 19:18, 24:15, 28:3, 28:5, 28:6, 80:15, 104:13  
**1/2-foot** [1] - 28:3  
**10** [1] - 52:24  
**100** [1] - 12:4  
**100-watt** [1] - 78:4  
**10:00** [3] - 84:3, 84:5, 116:7  
**10A-01-08** [2] - 73:4, 115:6  
**10A-01-16** [3] - 9:25, 101:2, 101:9  
**10A-02-16** [3] - 13:8, 104:2, 104:11  
**10A-03-16** [3] - 18:8, 106:2, 106:12  
**10A-04-16** [3] - 28:19, 108:2, 108:11  
**10A-05-16** [3] - 39:21, 110:3, 110:13  
**10A-06-16** [3] - 62:23, 119:2, 119:11  
**10A-07-16** [3] - 68:20, 113:2, 113:10  
**10A-08-16** [3] - 72:25, 115:2, 115:11  
**10A-09-16** [3] - 88:14, 117:2, 117:11  
**11** [1] - 67:25  
**11:00** [8] - 47:8, 47:18, 48:25, 53:18, 53:20, 54:17, 111:25, 112:3  
**11A-11-15** [2] - 10:3, 101:5  
**12** [2] - 27:24, 120:4  
**12-volt** [1] - 77:21  
**12:15** [1] - 56:11  
**12A-04-13** [2] - 39:24, 110:6  
**13** [1] - 91:4  
**140** [2] - 12:4, 57:19  
**14020** [2] - 1:25, 97:23  
**145** [1] - 6:13  
**14618** [2] - 1:6, 97:6  
**15** [3] - 19:15, 88:18, 117:7  
**15-foot** [1] - 117:16  
**150** [1] - 7:21  
**16** [3] - 30:24, 68:24, 113:7  
**16-foot** [1] - 108:16  
**16-square-foot** [1] - 71:9  
**17** [2] - 2:23, 98:7  
**1850** [4] - 9:25, 10:2, 101:3, 101:4  
**19.23** [2] - 68:23, 113:6  
**1917** [2] - 80:10, 80:12  
**1920** [1] - 84:15  
**1940s** [1] - 14:7  
**1960** [1] - 80:4  
**1981** [2] - 73:3, 115:5  
**1:30** [1] - 56:11  
**1st** [1] - 120:3  
**2** [28] - 2:23, 20:23, 28:22, 28:24, 98:7, 98:25, 100:7, 101:17, 102:21, 104:13, 104:20, 105:8, 106:19, 107:3, 108:6, 108:8, 108:19, 109:10, 110:22, 111:24, 113:15, 114:2, 115:15, 116:6, 117:18, 118:4, 119:20, 121:5  
**2.5** [1] - 14:21  
**2.5-foot** [1] - 14:16  
**2.65** [1] - 14:14  
**20** [3] - 5:10, 19:20, 60:17  
**2010** [1] - 89:11  
**2015** [1] - 101:11  
**2016** [7] - 1:3, 1:5, 2:8, 3:2, 97:3, 97:4, 98:10  
**2017** [3] - 89:24, 118:5, 121:4  
**2018** [1] - 95:20  
**2021** [2] - 88:15, 117:4  
**203-16A(4)** [2] - 13:10, 104:5  
**203-2.1B(3)** [2] - 13:10, 104:5  
**205-6** [2] - 2:21, 98:5  
**207-31C(2)** [2] - 68:22, 113:5  
**207-42C(1)(b)** [2] - 18:12, 106:7  
**2077** [2] - 2:20, 98:4  
**21** [2] - 1:24, 97:23  
**219-4** [4] - 63:2, 88:17, 117:6, 119:6  
**2300** [4] - 1:2, 1:6, 97:2, 97:5  
**241** [1] - 16:7  
**2470** [2] - 68:21, 113:4  
**249** [4] - 13:9, 13:16, 13:18, 104:4  
**25** [3] - 2:22, 58:22, 98:6  
**2566** [1] - 59:14  
**26** [1] - 80:5  
**2600** [4] - 39:21, 39:22, 110:4, 110:5  
**28** [1] - 19:15  
**2850** [2] - 62:24, 119:4  
**29** [1] - 19:15  
**29th** [1] - 2:8  
**3** [20] - 3:2, 13:11, 14:21, 98:10, 99:15, 101:22, 104:6, 104:23, 105:10, 107:5, 108:22, 109:12, 111:5, 112:5, 113:19, 115:18, 116:8, 117:21, 118:7, 119:25  
**3-ounce** [1] - 43:7  
**3.23** [1] - 70:21  
**3.65** [1] - 14:10  
**30** [5] - 2:24, 5:10, 39:8, 43:9, 98:8  
**35** [1] - 56:19  
**3:00** [1] - 63:24  
**4** [18] - 5:21, 20:22, 28:3, 28:5, 63:3, 101:25, 107:7, 109:2, 109:14, 111:14, 112:8, 115:22, 116:9, 118:10, 119:7, 120:10  
**4.25** [1] - 70:20  
**40** [3] - 43:9, 88:17, 117:6  
**40-foot** [1] - 117:16  
**410** [1] - 73:9  
**421** [1] - 73:11  
**45** [1] - 59:19  
**5** [17] - 1:3, 1:5, 13:12, 15:14, 24:15, 27:24, 28:3, 28:6, 78:15, 97:3, 97:4, 104:7, 104:14, 109:16, 112:14, 115:25, 120:15  
**50** [4] - 2:22, 39:8, 98:6, 99:3  
**51** [1] - 39:9  
**59** [3] - 28:20, 29:6, 108:4  
**590** [4] - 11:10, 94:24, 94:25, 102:14  
**5:00** [1] - 112:7  
**5A-07-97** [2] - 39:23, 110:6  
**5th** [4] - 57:20, 95:20, 118:5, 121:4  
**6** [9] - 19:12, 20:21, 26:7, 26:9, 80:14, 102:11, 112:15  
**6-by-8-foot** [1] - 24:10  
**6-inch** [2] - 70:23, 104:18  
**60s** [1] - 8:12  
**65** [2] - 39:9, 56:19  
**6:30** [1] - 56:17  
**7** [3] - 19:18, 88:22, 112:16  
**70** [1] - 58:21  
**72** [1] - 64:9  
**75** [1] - 58:22  
**7:00** [1] - 112:6  
**7:15** [2] - 1:3, 97:3  
**7:30ish** [1] - 56:17  
**8** [7] - 15:16, 20:21, 24:15, 26:7, 26:9, 43:24, 112:18  
**8-foot** [1] - 108:17  
**8-foot-wide** [1] - 30:24  
**80** [1] - 12:5  
**80-foot-wide** [1] - 99:13  
**80-year-old** [1] - 17:12  
**85** [3] - 18:11, 18:23, 106:5  
**8:00** [3] - 53:17, 54:17, 112:3  
**8A-05-16** [3] - 2:19, 98:2, 98:13  
**9** [2] - 15:16, 80:15  
**9-year-old** [1] - 119:16  
**90th** [1] - 89:12  
**91** [1] - 29:13  
**91-year-old** [1] - 108:15  
**99** [11] - 50:8, 50:12, 50:15, 50:17, 50:24, 51:3, 51:8, 51:11, 53:6, 57:9, 112:17  
**99-seat** [2] - 51:18, 52:12  
**9:00** [6] - 47:8, 47:18, 47:24, 49:3, 53:20, 111:25  
**9A-04-89** [2] - 28:22, 108:6  
**a.m** [5] - 48:25, 111:25, 112:3, 112:6  
**Aaron** [1] - 40:6  
**abide** [1] - 49:12  
**ability** [3] - 60:12, 78:6, 101:15  
**able** [10] - 7:12, 29:17, 29:25, 35:4, 45:24, 58:18, 65:15, 74:17, 85:7, 119:17  
**above-styled** [1] - 122:5  
**absent** [1] - 34:5  
**absolutely** [4] - 13:22, 40:25, 46:24, 55:11  
**abstain** [1] - 116:14  
**abuts** [1] - 111:2  
**accept** [1] - 65:4  
**acceptable** [2] - 82:23, 119:15  
**access** [8] - 3:16, 3:20, 31:7, 31:15, 31:18, 31:23, 35:16, 104:21  
**accesses** [2] - 32:2, 36:12  
**accessible** [2] - 31:17, 120:24  
**accident** [1] - 85:12  
**accidents** [1] - 85:20  
**accommodate** [7] - 29:17, 55:2, 63:16, 63:22, 66:10, 69:8, 70:23  
**accommodated** [1] - 46:25  
**accommodations** [1] - 46:18  
**accomplish** [1] - 75:21  
**accordingly** [1] - 84:6  
**account** [1] - 47:4  
**accurately** [1] - 4:6  
**accustomed** [1] -

## EDITH FORBES COURT REPORTING SERVICES

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111:10  
**achieved** [1] - 99:16  
**acorn** [1] - 81:17  
**acoustic** [1] - 6:4  
**acting** [1] - 78:18  
**action** [2] - 122:13  
**active** [1] - 41:17  
**activities** [1] - 64:21  
**activity** [2] - 48:14, 48:20  
**actual** [2] - 8:4, 95:22  
**adapted** [1] - 36:17  
**add** [5] - 30:10, 38:8, 45:17, 50:19, 75:4  
**added** [2] - 4:10, 4:23  
**adding** [4] - 44:10, 46:22, 75:2, 79:15  
**addition** [7] - 2:22, 3:14, 4:8, 9:11, 35:25, 41:22, 98:6  
**additional** [15] - 3:24, 4:2, 4:25, 14:14, 20:10, 22:18, 22:24, 23:4, 26:22, 36:16, 65:14, 70:21, 94:10, 95:6, 120:8  
**address** [5] - 6:7, 6:11, 7:21, 29:4, 67:13  
**adequate** [1] - 65:24  
**adhere** [1] - 112:11  
**adhered** [2] - 89:15, 94:3  
**adhering** [1] - 94:17  
**adjacent** [8] - 18:13, 59:15, 98:24, 99:12, 106:8, 106:19, 107:4, 110:24  
**adjoiner** [1] - 3:17  
**adjoining** [2] - 3:23, 6:18  
**adjust** [1] - 78:7  
**adjustability** [1] - 78:10  
**administrative** [1] - 92:5  
**admire** [2] - 82:10, 82:11  
**advantage** [1] - 89:21  
**adversely** [1] - 109:3  
**advertised** [2] - 2:5, 2:7  
**advertisement** [1] - 77:23  
**advice** [1] - 11:6  
**affect** [3] - 113:19, 117:21, 120:11  
**affected** [3] - 16:5, 39:3, 109:3  
**affecting** [1] - 6:25  
**afterthought** [1] - 48:2  
**afterwards** [1] - 89:25  
**agent** [4] - 68:20, 73:2, 113:3, 115:4  
**ago** [8] - 6:21, 7:24, 69:11, 76:21, 82:7, 83:2, 83:8, 91:15  
**agree** [2] - 84:17, 87:18  
**agreeable** [3] - 95:4, 95:17, 96:3  
**agreement** [1] - 3:20  
**ahead** [3] - 7:14, 25:25, 54:19  
**air** [3] - 4:14, 34:14, 37:8  
**air-condition** [1] - 37:8  
**air-conditioning** [1] - 34:14  
**Airosmith** [1] - 25:24  
**Alice** [6] - 2:19, 3:6, 3:8, 6:12, 8:9, 98:3  
**alignment** [1] - 104:22  
**alleged** [2] - 110:22, 111:14  
**alleviate** [2] - 108:19, 115:25  
**allow** [20] - 2:21, 9:14, 13:11, 18:12, 32:23, 32:25, 36:7, 39:24, 40:8, 57:17, 63:2, 68:23, 83:11, 98:5, 104:6, 104:12, 106:7, 110:6, 113:5, 119:6  
**allowance** [1] - 36:7  
**allowed** [12] - 18:14, 32:15, 51:19, 63:4, 68:24, 84:4, 84:5, 88:19, 106:9, 113:7, 117:8, 119:7  
**allowing** [4] - 28:22, 52:24, 101:12, 108:6  
**allows** [2] - 110:18, 120:21  
**almost** [5] - 10:13, 15:16, 19:15, 44:5, 83:2  
**alter** [1] - 111:6  
**alterative** [1] - 115:25  
**alternative** [2] - 30:4, 108:19  
**amount** [2] - 7:5, 63:25  
**anchors** [1] - 94:10  
**ANDREA** [2] - 1:11, 97:10  
**angle** [1] - 90:9  
**angled** [3] - 72:5, 72:6, 72:9  
**Anne** [2] - 84:7, 84:14  
**anniversary** [1] - 89:12  
**answer** [5] - 4:16, 21:11, 25:6, 33:16, 43:15  
**answered** [1] - 3:9  
**antenna** [7] - 19:2, 19:12, 19:14, 19:17, 19:23, 19:24, 22:13  
**anticipate** [7] - 48:24, 49:2, 49:24, 92:25, 93:10, 93:12, 94:14  
**anyway** [1] - 11:22  
**anyways** [1] - 20:19  
**apartment** [4] - 33:4, 33:12, 36:2, 36:18  
**APPEALS** [2] - 1:2, 97:2  
**Appeals** [1] - 2:4  
**appear** [4] - 12:20, 99:9, 99:14, 113:21  
**applicable** [2] - 110:15, 110:18  
**applicant** [15] - 18:19, 99:2, 99:15, 99:19, 100:2, 101:11, 101:13, 108:13, 110:15, 111:15, 115:15, 117:15, 120:5, 120:21, 121:2  
**Applicant** [1] - 97:18  
**applicant's** [8] - 99:6, 99:18, 99:22, 101:15, 119:13, 119:16, 119:21, 120:17  
**application** [42] - 2:18, 2:25, 3:6, 5:16, 10:5, 13:13, 18:15, 18:20, 21:8, 28:15, 28:25, 39:17, 40:4, 62:19, 63:5, 63:8, 68:16, 68:25, 72:21, 73:7, 83:25, 86:2, 88:20, 92:22, 96:16, 98:9, 100:5, 101:7, 102:19, 104:8, 106:10, 107:2, 108:9, 109:7, 110:10, 111:22, 113:8, 115:9, 116:5, 117:9, 118:3, 119:8  
**Application** [40] - 2:19, 9:25, 13:8, 18:8, 28:19, 39:21, 62:23, 68:20, 72:25, 88:14, 98:2, 98:3, 98:13, 101:2, 101:3, 101:9, 104:2, 104:3, 104:11, 106:2, 106:3, 106:12, 108:2, 108:3, 108:11, 110:3, 110:4, 110:13, 113:2, 113:3, 113:10, 115:2, 115:3, 115:11, 117:2, 117:3, 117:11, 119:2, 119:3, 119:11  
**applications** [2] - 12:5, 21:13  
**applies** [2] - 100:4, 106:24  
**apply** [4] - 109:6, 110:23, 118:2, 118:5  
**applying** [1] - 29:7  
**appreciate** [5] - 2:16, 16:8, 73:22, 84:7, 84:25  
**approach** [2] - 74:23, 75:4  
**appropriate** [3] - 48:18, 110:25, 113:17  
**approval** [12] - 8:18, 9:15, 9:16, 30:18, 34:4, 89:3, 93:2, 100:4, 101:12, 102:18, 109:3, 113:20  
**approvals** [6] - 45:4, 100:8, 102:22, 109:17, 113:25, 116:10  
**approve** [21] - 38:6, 98:12, 100:13, 101:8, 103:3, 104:10, 105:16, 106:11, 107:12, 108:10, 109:22, 110:12, 112:24, 113:9, 114:9, 115:10, 116:16, 117:10, 118:15, 119:10, 121:12  
**approved** [21] - 10:4, 28:21, 40:4, 40:15, 44:8, 44:15, 63:12, 73:5, 83:9, 89:11, 90:19, 95:6, 101:6, 101:17, 101:22, 108:5, 110:10, 111:21, 115:7, 115:15  
**APPROXIMATELY** [2] - 1:3, 97:3  
**April** [1] - 93:8  
**ARB** [2] - 46:3, 56:4  
**ARB's** [1] - 9:16  
**arcade** [2] - 83:12, 84:21  
**architect** [5] - 3:11, 7:21, 28:19, 33:15, 108:3  
**architectural** [24] - 4:6, 7:16, 7:18, 7:19, 7:23, 8:10, 8:15, 9:8, 22:8, 44:23, 46:11, 46:13, 60:23, 61:19, 61:21, 63:13, 69:19, 95:10, 100:7, 102:21, 109:16, 112:18, 113:24, 116:9  
**Area** [6] - 2:21, 13:10, 18:11, 98:4, 104:4, 106:6  
**area** [28] - 18:21, 19:3, 19:10, 19:13, 19:25, 20:3, 20:18, 20:20, 22:15, 22:17, 24:8, 24:9, 32:9, 32:12, 32:14, 32:18, 36:8, 37:18, 44:9, 44:10, 68:5, 98:19, 102:3, 104:11, 106:14, 106:16, 115:20, 115:24  
**areas** [2] - 15:5, 99:25  
**Ashview** [1] - 88:22  
**assistance** [1] - 102:15  
**assisted** [1] - 122:7  
**association** [1] - 49:7  
**assuming** [1] - 68:6  
**assure** [1] - 61:18  
**AT** [6] - 1:2, 1:3, 2:25, 97:2, 97:3, 98:9  
**Atlantic** [3] - 18:8, 73:9, 106:3  
**attached** [6] - 28:23, 29:9, 31:11, 94:19, 108:7, 109:14  
**attaching** [1] - 31:19  
**attempt** [1] - 104:20  
**attend** [1] - 60:25

## EDITH FORBES COURT REPORTING SERVICES

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**attendance** [1] - 3:8  
**attention** [1] - 83:24  
**Attorney** [2] - 1:13, 97:13  
**attorney** [2] - 122:11, 122:12  
**audience** [11] - 7:10, 28:14, 38:13, 39:16, 59:7, 62:18, 68:15, 72:20, 79:24, 85:25, 96:15  
**auditorium** [1] - 83:14  
**August** [1] - 93:13  
**AUGUST** [2] - 3:2, 98:10  
**availability** [1] - 47:3  
**available** [4] - 24:10, 26:20, 47:23, 120:11  
**Avalon** [5] - 28:20, 29:6, 39:9, 108:4  
**Ave** [1] - 5:5  
**AVENUE** [2] - 1:2, 97:2  
**Avenue** [22] - 1:6, 2:20, 39:22, 46:12, 62:25, 68:22, 69:10, 69:16, 69:24, 70:3, 70:5, 70:8, 72:11, 73:9, 97:5, 98:4, 99:10, 110:5, 113:4, 113:14, 113:22, 119:4  
**aware** [2] - 2:13, 41:3  
**background** [2] - 40:23, 41:7  
**Bagel** [1] - 50:10  
**bagel** [2] - 40:2, 110:8  
**bagels** [1] - 110:19  
**Bagels** [1] - 40:10  
**Baker** [15] - 100:11, 102:25, 105:12, 105:14, 107:8, 107:10, 108:10, 109:20, 112:22, 114:5, 114:7, 116:13, 117:10, 118:13, 121:10  
**BAKER** [10] - 1:11, 35:11, 35:22, 36:14, 36:21, 37:3, 37:11, 43:2, 65:13, 97:10  
**balance** [1] - 74:16  
**bank** [3] - 11:23, 11:24, 12:8  
**Bank** [1] - 10:8  
**banner** [15] - 88:18, 89:4, 89:5, 89:10, 90:3, 90:16, 90:23, 91:2, 91:8, 117:7, 117:17, 117:18, 118:2, 118:6, 118:10  
**banners** [1] - 90:22  
**Baptist** [1] - 80:22  
**barrier** [1] - 64:4  
**base** [6] - 28:6, 82:15, 86:12, 86:17, 86:23, 115:22  
**based** [4] - 52:3, 105:5, 114:2, 114:3  
**basis** [1] - 12:8  
**bat** [1] - 80:8  
**Batavia** [3] - 1:25, 97:23, 122:14  
**bath** [2] - 32:6, 32:13  
**bathroom** [4] - 30:11, 32:9, 34:16, 108:14  
**beam** [1] - 67:25  
**bearing** [1] - 81:9  
**bears** [1] - 111:3  
**beautiful** [9] - 57:20, 81:16, 82:12, 82:13, 85:10, 87:17, 87:19, 88:2  
**beautifully** [1] - 82:6  
**became** [1] - 93:6  
**because..** [1] - 21:24  
**become** [3] - 26:20, 35:24, 56:13  
**becomes** [2] - 37:18, 52:8  
**bed** [5] - 29:17, 29:20, 29:21, 32:9  
**bedroom** [3] - 30:11, 32:9, 108:14  
**bedrooms** [1] - 29:23  
**BEFORE** [2] - 1:2, 97:2  
**began** [1] - 120:3  
**beginning** [1] - 95:25  
**behind** [5] - 17:12, 20:13, 32:3, 38:22, 91:6  
**Bell** [2] - 18:8, 106:3  
**beneficial** [2] - 23:3, 40:16  
**benefit** [3] - 54:14, 99:15, 110:16  
**best** [2] - 3:9, 30:4  
**better** [3] - 30:8, 49:21, 93:7  
**between** [5] - 15:20, 32:24, 111:3, 112:6, 119:24  
**beyond** [1] - 49:3  
**bicycle** [3] - 46:19, 51:22, 51:25  
**bicycling** [1] - 47:5  
**big** [9] - 7:8, 24:14, 46:7, 52:15, 53:6, 80:12, 81:2, 82:23, 91:15  
**bigger** [1] - 48:6  
**biggest** [3] - 15:11, 57:4, 57:5  
**bike** [2] - 46:21, 52:6  
**Bin** [1] - 50:10  
**binder** [1] - 74:9  
**bit** [17] - 10:21, 19:24, 21:3, 25:16, 29:18, 47:22, 53:10, 55:4, 56:16, 56:23, 67:20, 76:3, 76:7, 84:16, 85:14, 86:13, 95:21  
**blank** [1] - 46:12  
**blend** [1] - 71:3  
**blew** [1] - 69:12  
**block** [4] - 32:25, 60:9, 61:9, 61:10  
**blocked** [1] - 102:13  
**blocking** [1] - 119:22  
**blow** [1] - 94:16  
**blowing** [1] - 94:13  
**blue** [2] - 16:24, 16:25  
**BOARD** [2] - 1:2, 97:2  
**Board** [2] - 2:3, 97:17  
**board** [43] - 2:13, 3:15, 3:22, 7:16, 7:18, 7:23, 8:15, 8:20, 9:8, 9:14, 11:2, 13:25, 18:17, 18:20, 21:12, 21:17, 44:24, 46:11, 46:13, 51:15, 56:3, 59:2, 59:12, 60:24, 61:19, 61:21, 66:22, 69:19, 79:25, 83:2, 92:12, 95:10, 100:7, 100:8, 102:21, 102:22, 109:17, 112:18, 113:24, 113:25, 116:9, 116:10  
**board..** [1] - 21:15  
**boards** [1] - 76:11  
**bone** [2] - 41:11, 42:7  
**borders** [1] - 98:18  
**bore** [1] - 21:9  
**BORROWS** [1] - 35:9  
**bottom** [2] - 26:5, 75:14  
**box** [6] - 20:21, 24:4, 26:8, 46:7, 52:21, 82:16  
**brand** [7] - 16:2, 41:17, 45:14, 45:20, 46:23, 56:11, 56:15  
**branding** [8] - 73:20, 74:15, 75:9, 80:16, 80:20, 81:3, 81:22, 84:18  
**breezeway** [15] - 31:24, 31:25, 32:19, 32:22, 33:11, 33:20, 34:8, 34:22, 35:7, 35:8, 35:12, 35:13, 35:23, 36:12, 109:14  
**BRENNAN** [11] - 18:16, 22:3, 23:7, 23:19, 24:4, 24:18, 25:5, 27:6, 27:15, 27:22, 28:9  
**Brennan** [1] - 18:17  
**brick** [1] - 101:19  
**brighter** [2] - 75:12  
**brightness** [1] - 78:7  
**Brighton** [14] - 1:5, 2:3, 2:7, 18:24, 41:7, 41:13, 48:6, 54:2, 59:18, 64:9, 69:8, 73:19, 97:5, 111:16  
**bring** [4] - 8:4, 44:3, 45:16, 45:17  
**bringing** [1] - 38:12  
**broth** [2] - 41:11, 42:7  
**brought** [3] - 3:10, 67:24, 74:9  
**brown** [1] - 91:15  
**Bruegger's** [2] - 40:10, 50:14  
**Buckingham** [2] - 40:6, 60:4  
**build** [4] - 18:21, 22:4, 35:2, 37:23  
**building** [86] - 2:21, 4:4, 4:9, 4:24, 8:2, 8:11, 9:10, 10:14, 10:16, 12:25, 13:3, 16:2, 18:14, 18:23, 19:5, 19:13, 19:19, 20:5, 20:9, 20:13, 20:19, 22:5, 22:9, 22:19, 23:6, 23:8, 23:10, 23:16, 23:20, 24:11, 33:17, 39:25, 40:9, 40:12, 40:14, 40:19, 44:17, 45:16, 45:17, 46:16, 46:17, 54:25, 59:24, 60:3, 60:6, 60:22, 61:7, 62:14, 72:10, 73:5, 88:18, 89:15, 90:14, 91:14, 91:15, 92:15, 94:11, 98:5, 99:4, 100:2, 100:4, 101:13, 101:19, 101:21, 101:23, 102:2, 102:5, 102:7, 102:8, 105:8, 106:9, 106:20, 106:21, 107:4, 107:7, 109:15, 109:16, 110:8, 112:10, 112:19, 115:7, 115:16, 117:7, 117:17  
**Building** [2] - 18:10, 106:5  
**building's** [1] - 99:8  
**buildings** [2] - 19:3, 99:10  
**built** [7] - 14:7, 33:22, 78:9, 80:12, 82:7, 82:13, 86:16  
**bump** [1] - 56:18  
**burden** [2] - 30:3, 111:3  
**BURROWS** [7] - 33:14, 34:9, 35:2, 36:9, 37:6, 37:19, 39:14  
**Burrows** [3] - 28:19, 33:14, 108:3  
**bushes** [1] - 70:14  
**business** [5] - 52:24, 106:22, 110:25, 112:5, 112:6  
**businesses** [1] - 61:15  
**busy** [4] - 52:16, 57:10, 61:13, 85:19  
**but..** [1] - 23:18  
**buy** [1] - 10:16  
**by..** [1] - 6:23  
**C-A-V-E-N-Y** [1] - 43:21  
**CAIAZZA** [9] - 59:9, 59:11, 59:13, 61:6, 61:24, 62:4, 62:7, 62:10, 62:16  
**Caiazza** [1] - 59:13  
**camp** [1] - 64:11  
**camped** [1] - 63:19  
**camper** [7] - 64:8, 64:9, 64:12, 64:15, 65:25, 66:7, 66:18

## EDITH FORBES COURT REPORTING SERVICES

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**camping** [5] - 63:2, 119:6, 119:20, 121:2, 121:5  
**CANDICE** [2] - 1:11, 97:10  
**cannot** [6] - 7:3, 21:23, 64:9, 74:4, 99:15, 106:21  
**cantenna** [1] - 18:22  
**capacity** [1] - 49:24  
**car** [3] - 14:12, 28:23, 108:7  
**cardboard** [1] - 43:22  
**care** [6] - 30:2, 63:17, 81:24, 93:15, 120:21  
**careful** [3] - 38:4, 50:7, 52:20  
**Carol** [1] - 38:12  
**carried** [1] - 50:12  
**carrier** [2] - 21:4, 26:21  
**carries** [10] - 100:14, 103:4, 105:17, 107:13, 109:23, 112:25, 114:10, 116:17, 118:16, 121:13  
**carry** [2] - 82:10, 90:2  
**cars** [1] - 51:22  
**case** [2] - 83:22, 94:5  
**cases** [1] - 97:18  
**casual** [3] - 39:25, 41:9, 110:7  
**catch** [1] - 95:25  
**CAVENY** [2] - 43:17, 43:21  
**Caveny** [2] - 43:17, 43:21  
**CC-110** [1] - 27:25  
**CC-111** [1] - 26:4  
**cedar** [2] - 16:17, 17:6  
**ceiling** [4] - 34:10, 34:11, 37:20, 68:2  
**celebrate** [1] - 90:8  
**celebrating** [3] - 73:17, 80:11, 80:13  
**cell** [2] - 18:22, 22:11  
**centennial** [1] - 80:11  
**center** [1] - 28:4  
**certain** [6] - 7:5, 60:19, 64:22, 65:14, 95:18, 96:4  
**certainly** [7] - 10:20, 11:9, 12:9, 24:13, 46:22, 87:16, 96:7  
**certify** [2] - 122:4, 122:10  
**CHAIRMAN** [2] - 1:9, 97:8  
**chairman** [3] - 2:6, 13:20, 18:6  
**chance** [1] - 87:14  
**change** [15] - 10:4, 10:10, 15:3, 15:4, 44:23, 50:13, 63:14, 98:16, 101:6, 101:23, 102:2, 108:22, 108:24, 117:19, 120:13  
**changed** [1] - 104:25  
**changes** [5] - 4:19, 59:20, 59:23, 61:2  
**changing** [6] - 44:17, 44:19, 91:7, 93:10, 101:18, 101:25  
**character** [14] - 8:10, 15:4, 20:3, 74:16, 80:19, 98:16, 99:9, 104:23, 106:16, 108:22, 111:6, 113:19, 120:13  
**chest** [1] - 5:14  
**chicken** [3] - 42:4, 42:25, 43:9  
**chicken/egg** [1] - 38:4  
**Chili** [1] - 88:23  
**Chipotle** [1] - 41:10  
**choosing** [1] - 76:13  
**chosen** [3] - 74:20, 75:4, 75:7  
**CHRISTINE** [2] - 1:9, 97:9  
**church** [1] - 80:22  
**Circle** [2] - 39:8  
**City** [1] - 122:14  
**clad** [2] - 86:17, 86:23  
**clarification** [3] - 51:21, 79:4, 90:21  
**clarify** [3] - 86:3, 86:12, 86:25  
**clean** [1] - 41:18  
**cleaning** [1] - 112:12  
**clear** [4] - 56:3, 80:23, 86:15, 102:12  
**clearer** [1] - 11:3  
**click** [1] - 58:7  
**clients** [1] - 10:18  
**climate** [1] - 52:4  
**climb** [1] - 29:22  
**Clinton** [9] - 2:20, 5:5, 8:7, 8:16, 9:5, 98:4, 98:19, 99:5, 99:10  
**close** [12] - 19:22, 34:17, 36:12, 47:14, 49:3, 60:7, 60:8, 60:19, 62:14, 102:4, 105:2, 119:23  
**closed** [8] - 28:17, 32:20, 39:19, 62:21, 68:18, 72:23, 88:11, 96:18  
**closet** [2] - 23:12, 24:3  
**Clover** [8] - 69:24, 70:8, 72:11, 73:3, 74:11, 80:4, 84:15, 115:5  
**Cobbs** [1] - 73:11  
**Code** [1] - 69:8  
**code** [31] - 2:23, 2:24, 13:13, 18:14, 19:6, 21:21, 21:24, 22:2, 22:4, 32:16, 33:10, 33:17, 33:24, 34:6, 37:17, 51:25, 63:4, 64:10, 68:25, 70:22, 71:7, 88:19, 98:7, 98:8, 104:8, 104:14, 106:9, 109:15, 113:7, 117:8, 119:8  
**collector** [1] - 55:15  
**color** [12] - 10:4, 10:11, 16:19, 16:20, 16:23, 75:8, 75:9, 101:6, 101:17, 101:18, 105:10, 107:3  
**coloring** [1] - 75:13  
**comfort** [1] - 37:7  
**comfortable** [2] - 37:7, 37:9  
**coming** [11] - 11:10, 12:7, 44:4, 69:16, 70:11, 70:16, 74:11, 79:6, 85:6, 85:16, 95:5  
**commemorate** [2] - 89:6, 89:11  
**COMMENCING** [2] - 1:3, 97:3  
**commented** [1] - 46:14  
**comments** [1] - 8:4  
**commercial** [8] - 19:8, 20:5, 23:21, 98:19, 99:4, 99:10, 106:22, 110:24  
**committee** [3] - 63:12, 63:13, 65:21  
**communications** [1] - 91:6  
**communities** [2] - 41:19, 49:20  
**community** [28] - 40:17, 40:18, 41:20, 41:23, 47:22, 47:25, 48:2, 48:10, 48:15, 48:17, 48:19, 48:21, 49:6, 49:19, 50:20, 50:22, 51:9, 51:16, 52:11, 52:15, 53:25, 54:2, 57:6, 91:10, 109:2, 112:2, 117:23, 120:19  
**company** [1] - 11:6  
**comparing** [1] - 56:22  
**compatible** [1] - 23:24  
**complete** [1] - 67:22  
**completed** [5] - 90:11, 97:18, 120:4, 120:6, 121:3  
**completely** [3] - 22:21, 36:16, 77:14  
**completion** [1] - 95:19  
**comply** [3] - 21:23, 21:25, 33:24  
**computer** [1] - 122:7  
**computer-assisted** [1] - 122:7  
**concept** [2] - 41:9, 42:24  
**conceptual** [1] - 99:20  
**concern** [10] - 10:24, 46:7, 46:10, 60:5, 60:14, 60:21, 61:11, 67:15, 68:10, 75:19  
**concerned** [6] - 33:8, 60:10, 66:23, 84:18, 85:14, 101:14  
**concerns** [4] - 8:19, 38:25, 49:15, 59:17  
**concert** [1] - 6:16  
**concerts** [1] - 7:12  
**concrete** [5] - 25:3, 25:15, 25:18, 26:7, 35:9  
**condition** [1] - 37:8  
**conditioning** [1] - 34:14  
**CONDITIONS** [9] - 100:3, 102:17, 105:4, 106:23, 109:5, 111:20, 116:3, 117:24, 120:25  
**conditions** [11] - 38:5, 100:14, 103:4, 105:17, 107:13, 109:23, 112:25, 114:10, 116:17, 118:16, 121:13  
**Conditions** [1] - 113:23  
**conference** [1] - 50:2  
**confirm** [1] - 17:16  
**confusing** [1] - 12:10  
**conical** [1] - 28:7  
**conjunction** [1] - 9:15  
**connected** [2] - 41:19, 122:12  
**connecting** [1] - 31:12  
**connection** [2] - 32:18, 37:9  
**connects** [1] - 31:12  
**conservative** [1] - 65:21  
**consider** [1] - 52:10  
**consideration** [2] - 51:25, 72:18  
**considered** [3] - 21:5, 33:20, 97:17  
**considering** [1] - 84:25  
**consistent** [3] - 75:5, 84:4, 99:5  
**constantly** [1] - 75:22  
**constitute** [1] - 122:8  
**construct** [1] - 37:16  
**constructed** [4] - 13:11, 77:13, 104:6, 104:13  
**construction** [19] - 66:17, 66:25, 67:3, 67:6, 67:17, 79:15, 86:13, 89:6, 89:20, 89:22, 90:11, 90:13, 117:13, 118:8, 119:14, 119:19, 119:22, 120:2, 121:3  
**contacted** [1] - 3:17  
**contain** [1] - 34:22  
**contained** [1] - 77:14  
**continue** [1] - 110:20  
**contractor** [4] - 63:21, 63:24, 66:20, 67:13

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

**contrast** [2] - 10:21, 101:19  
**control** [3] - 65:2, 66:19, 112:13  
**convenient** [1] - 36:13  
**conversation** [1] - 51:23  
**conversion** [2] - 28:22, 108:6  
**convert** [2] - 29:11, 108:13  
**converted** [1] - 109:14  
**converting** [1] - 33:23  
**convey** [2] - 73:20, 75:20  
**cook** [1] - 42:25  
**cooking** [1] - 32:6  
**cooperative** [1] - 59:21  
**CoreLife** [2] - 40:8, 52:6  
**corner** [9] - 11:11, 26:5, 26:9, 29:19, 69:24, 70:8, 102:5, 102:7, 102:8  
**corporate** [3] - 82:17, 84:24, 85:4  
**CORRADO** [21] - 1:9, 16:11, 16:14, 31:18, 31:22, 32:5, 42:15, 44:22, 46:10, 46:18, 46:25, 47:7, 47:9, 47:13, 48:24, 49:23, 51:20, 52:10, 52:20, 92:14, 97:9  
**Corrado** [12] - 100:9, 100:11, 102:25, 105:14, 107:10, 109:20, 110:12, 112:22, 114:7, 116:13, 118:13, 121:10  
**correct** [16] - 12:14, 12:22, 16:6, 17:20, 31:21, 32:8, 35:18, 42:20, 42:23, 44:18, 44:21, 62:9, 78:22, 90:12, 90:22, 90:24  
**corridor** [3] - 31:19, 31:22, 31:24  
**costly** [1] - 106:20  
**couch** [1] - 32:10  
**counsel** [2] - 122:11, 122:12  
**County** [3] - 29:25, 122:15, 122:25  
**COUNTY** [1] - 122:3  
**couple** [6] - 6:2, 8:3, 26:17, 45:2, 71:18, 74:19  
**course** [1] - 21:10  
**Court** [3] - 1:24, 97:22, 122:24  
**cover** [1] - 79:9  
**covered** [1] - 35:12  
**COWLEY** [6] - 25:7, 25:23, 26:2, 26:7, 26:13, 26:19  
**Cowley** [1] - 25:23  
**created** [2] - 89:22, 111:14  
**creates** [2] - 11:9, 11:19  
**creating** [1] - 23:4  
**creative** [1] - 91:7  
**crummy** [1] - 93:23  
**curb** [1] - 98:22  
**curiosity** [1] - 77:25  
**current** [11] - 14:25, 17:24, 70:19, 70:22, 71:8, 72:11, 76:13, 92:22, 104:17, 108:16  
**curved** [1] - 82:12  
**customers** [3] - 11:24, 22:14, 101:14  
**cut** [1] - 98:22  
**DALE** [26] - 1:10, 12:24, 17:8, 23:5, 23:11, 23:25, 24:12, 25:2, 25:11, 25:19, 26:6, 26:12, 26:17, 27:2, 44:11, 47:18, 58:2, 65:24, 66:4, 71:16, 79:13, 90:10, 93:17, 93:21, 94:21, 97:9  
**Dale** [12] - 100:10, 101:8, 102:24, 105:13, 107:9, 109:19, 112:21, 114:6, 116:12, 118:12, 119:10, 121:9  
**Dan** [1] - 26:10  
**Danbury** [2] - 39:8  
**dangerous** [1] - 12:10  
**Daniel** [1] - 18:17  
**dark** [2] - 6:17, 92:19  
**darker** [1] - 75:14  
**data** [2] - 21:18, 79:17  
**date** [4] - 64:22, 95:18, 96:4, 96:6  
**dated** [1] - 45:16  
**dates** [1] - 96:11  
**David** [5] - 28:19, 33:10, 33:14, 59:2, 108:3  
**DAVID** [2] - 1:13, 97:12  
**days** [1] - 47:18  
**dead** [1] - 37:4  
**deadline** [1] - 9:17  
**deal** [1] - 12:8  
**debate** [1] - 87:5  
**December** [2] - 92:19, 93:3  
**decided** [1] - 38:6  
**decision** [3] - 25:12, 61:23, 74:22  
**decision-making** [1] - 25:12  
**decisions** [1] - 97:19  
**decorative** [1] - 115:23  
**definitely** [3] - 16:10, 43:16, 68:9  
**deliberate** [1] - 88:6  
**deliveries** [3] - 47:10, 47:11, 112:5  
**demolish** [1] - 14:6  
**demolition** [6] - 15:25, 67:17, 67:22, 67:23, 68:5, 68:8  
**DENNIS** [2] - 1:9, 97:8  
**density** [2] - 117:23, 120:11  
**dependent** [1] - 34:19  
**deprived** [1] - 110:16  
**describe** [2] - 41:24, 67:19  
**described** [25] - 2:25, 10:5, 13:13, 18:15, 28:25, 35:23, 40:4, 63:4, 68:25, 73:7, 88:20, 98:9, 101:7, 104:8, 106:9, 106:25, 108:9, 109:7, 110:10, 111:22, 113:8, 115:8, 117:9, 118:2, 119:8  
**description** [1] - 89:16  
**design** [7] - 8:20, 14:11, 22:8, 91:24, 113:16, 118:2, 118:6  
**designed** [6] - 8:11, 22:15, 91:24, 113:17, 115:22, 120:7  
**designs** [2] - 14:24, 95:5  
**desire** [1] - 29:10  
**desired** [4] - 108:21, 113:13, 113:18, 116:2  
**desires** [1] - 99:23  
**destructive** [1] - 111:12  
**detached** [7] - 13:11, 14:6, 15:12, 17:24, 104:6, 104:12, 104:17  
**detail** [2] - 21:16, 86:13  
**detailed** [1] - 100:5  
**detected** [1] - 112:9  
**detriment** [2] - 98:17, 108:23  
**detrimental** [2] - 71:11, 120:13  
**develop** [1] - 53:12  
**Development** [1] - 25:24  
**diagonal** [1] - 71:8  
**diagram** [3] - 24:6, 24:13, 25:14  
**diameter** [3] - 19:16, 28:4, 28:6  
**diamond** [2] - 11:11, 11:21  
**dictated** [2] - 6:22, 99:21  
**difference** [2] - 15:2, 87:24  
**different** [13] - 14:18, 14:19, 17:2, 17:3, 21:4, 21:6, 86:4, 87:13, 91:18, 92:4, 92:9, 102:8, 111:17  
**difficult** [6] - 11:22, 12:10, 52:8, 52:12, 85:17, 104:22  
**difficulty** [4] - 75:24, 99:18, 108:20, 116:2  
**dignified** [1] - 74:23  
**dimension** [1] - 95:15  
**dimensional** [1] - 9:11  
**dimensions** [3] - 6:22, 9:11, 76:12  
**dining** [4] - 50:25, 51:2, 51:17, 53:3  
**dinner** [3] - 56:9, 56:14, 56:19  
**direction** [7] - 70:6, 70:11, 70:17, 72:4, 72:10, 78:10, 102:16  
**directly** [8] - 31:24, 38:21, 38:23, 39:3, 59:15, 71:5, 84:15, 99:16  
**directs** [1] - 85:5  
**disabled** [1] - 63:17  
**discreet** [1] - 80:23  
**discuss** [3] - 38:3, 45:7, 54:18  
**discussed** [1] - 8:21  
**discussion** [1] - 51:6  
**disrepair** [1] - 14:7  
**distance** [3] - 15:20, 34:18, 60:22  
**DISTEFANO** [38] - 1:14, 2:6, 2:10, 7:15, 9:7, 14:19, 25:17, 25:21, 32:11, 36:3, 36:6, 37:12, 38:9, 38:18, 39:2, 39:6, 43:19, 50:6, 50:21, 51:5, 51:24, 52:22, 53:5, 55:3, 55:8, 55:16, 56:7, 76:18, 76:20, 77:7, 79:4, 90:20, 90:25, 91:21, 92:3, 92:7, 92:12, 97:14  
**DiStefano** [1] - 35:23  
**distracted** [1] - 85:21  
**distraction** [2] - 11:20, 85:22  
**district** [9] - 19:7, 19:8, 19:9, 20:5, 51:13, 83:6, 110:23, 111:2, 111:3  
**diverging** [2] - 11:11, 11:21  
**division** [1] - 109:8  
**DOLLINGER** [6] - 1:13, 48:4, 52:13, 52:18, 59:4, 97:12  
**done** [10] - 4:23, 9:5, 22:20, 27:16, 34:2, 48:10, 67:18, 74:19, 87:12  
**door** [9] - 26:18, 30:23, 30:24, 31:5, 61:15, 70:12, 79:10, 108:16, 108:17  
**doors** [8] - 26:13, 31:23, 32:2, 32:19, 32:23, 36:22, 37:13, 37:14  
**down** [30] - 17:8, 17:14, 27:7, 54:22, 57:16, 64:15, 69:10, 69:16, 70:3, 71:23, 73:25, 75:11, 76:9,

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

76:15, 76:23, 77:16,  
79:7, 80:21, 81:19,  
81:20, 83:15, 83:19,  
85:12, 93:6, 93:25,  
94:7, 94:13, 94:16,  
96:4, 96:6  
**downstairs** [1] -  
67:22  
**downward** [1] - 85:3  
**drawing** [1] - 79:13  
**drawings** [6] - 6:19,  
17:23, 31:10, 60:8,  
86:14, 89:14  
**drawn** [1] - 9:10  
**drinks** [1] - 110:20  
**drive** [4] - 67:5, 70:3,  
92:18, 112:15  
**Drive** [10] - 1:24,  
16:7, 28:21, 29:6,  
39:9, 73:11, 88:22,  
97:23, 108:5  
**drive-thru** [1] -  
112:15  
**driven** [1] - 49:19  
**drivers** [2] - 11:20,  
72:3  
**driveway** [11] -  
15:13, 15:17, 31:24,  
32:2, 36:13, 63:3,  
104:20, 119:7,  
119:21, 120:17, 121:6  
**driving** [5] - 69:9,  
71:23, 72:8, 72:10,  
94:25  
**drywall** [2] - 34:12,  
67:19  
**DUDLEY** [12] - 73:8,  
77:3, 77:10, 77:20,  
78:3, 78:9, 78:15,  
78:22, 79:17, 86:3,  
86:7, 86:10  
**Dudley** [3] - 73:8,  
77:10, 86:10  
**due** [7] - 85:20,  
102:13, 104:20,  
104:22, 113:12,  
113:15, 117:18  
**dug** [2] - 33:17,  
34:21  
**dumpster** [14] -  
43:22, 66:2, 66:6,  
66:8, 66:17, 67:2,  
67:5, 67:7, 67:8,  
67:10, 119:22,  
119:23, 119:24  
**dumpsters** [3] -  
43:12, 55:21, 55:22  
**dumpsters..** [1] -  
43:16  
**duplicate** [1] - 76:9  
**duration** [2] - 67:3,  
119:25  
**during** [8] - 12:20,  
32:20, 48:21, 63:18,  
66:15, 85:18, 111:23,  
117:13  
**dust** [1] - 63:21  
**duty** [1] - 23:23  
**dwelling** [1] - 32:12  
**early** [3] - 41:16,  
50:11, 93:3  
**early-mid** [1] - 50:11  
**easement** [1] -  
115:19  
**East** [12] - 68:21,  
69:10, 69:16, 69:24,  
70:3, 70:5, 70:8,  
72:11, 91:4, 113:4,  
113:14, 113:22  
**east** [3] - 4:8, 70:6,  
111:7  
**easy** [1] - 34:15  
**eat** [3] - 56:15, 56:16,  
58:20  
**eatery** [2] - 40:3,  
110:9  
**Eatery** [2] - 40:8,  
52:6  
**Eatery,** [2] - 39:24,  
110:7  
**eating** [2] - 57:22,  
57:24  
**economic** [1] -  
110:16  
**economical** [1] -  
75:3  
**Ed** [1] - 3:4  
**edged** [1] - 82:19  
**edges** [1] - 94:9  
**Edith** [2] - 1:24,  
97:22  
**educational** [1] -  
81:4  
**effect** [4] - 74:25,  
101:23, 102:2, 104:23  
**efficient** [1] - 34:15  
**eight** [3] - 4:23, 83:2,  
83:7  
**either** [3] - 40:21,  
70:17, 85:6  
**elderly** [1] - 108:20  
**electric** [1] - 109:10  
**electricity** [2] -  
34:19, 120:15  
**elements** [1] - 45:15  
**elevation** [6] - 3:14,  
4:4, 8:6, 8:17, 9:2, 9:4  
**elevations** [1] - 7:19  
**elevator** [3] - 63:15,  
64:24, 120:7  
**ELMWOOD** [2] - 1:2,  
97:2  
**Elimwood** [10] - 1:6,  
39:21, 39:22, 46:12,  
59:14, 62:24, 97:5,  
110:4, 110:5, 119:4  
**emission** [2] - 112:8,  
112:13  
**emissions** [1] -  
42:21  
**employee** [1] -  
122:12  
**en** [1] - 102:15  
**encased** [1] - 43:24  
**enclose** [1] - 22:6  
**enclosed** [6] - 19:6,  
35:15, 43:14, 43:16,  
55:19, 112:7  
**enclosing** [1] -  
106:19  
**end** [3] - 60:24, 68:3,  
70:5  
**endanger** [1] -  
120:18  
**ended** [1] - 50:5  
**energy** [2] - 34:15,  
37:17  
**engage** [1] - 3:19  
**engagement** [1] -  
91:11  
**engineer** [1] - 3:5  
**engineering** [1] -  
23:13  
**engineering-type** [1]  
- 23:13  
**engineers** [1] - 27:17  
**enjoy** [1] - 60:13  
**enlargement** [1] -  
118:8  
**enrollment** [1] -  
75:23  
**entertained** [1] -  
21:12  
**enthusiastic** [1] -  
7:25  
**entire** [4] - 39:25,  
40:11, 66:17, 110:8  
**entrance** [7] - 36:10,  
74:5, 74:6, 79:15,  
83:12, 84:21  
**entryway** [1] - 74:13  
**environment** [1] -  
119:18  
**environmental** [3] -  
23:12, 119:14, 120:22  
**equal** [1] - 78:2  
**equipment** [33] -  
18:13, 19:4, 19:11,  
19:21, 20:4, 20:8,  
20:11, 20:12, 20:21,  
20:25, 21:18, 22:6,  
22:21, 22:22, 23:6,  
23:8, 23:24, 24:6,  
24:7, 24:12, 24:20,  
25:16, 25:20, 26:10,  
26:16, 106:8, 106:14,  
106:18, 106:19,  
106:21, 106:25,  
107:3, 107:6  
**equivalent** [1] - 78:3  
**era** [1] - 93:15  
**erected** [2] - 8:24,  
62:14  
**Espada** [2] - 68:20,  
113:3  
**especially** [1] - 57:10  
**ESQ** [4] - 1:11, 1:13,  
97:10, 97:12  
**essentially** [1] - 22:4  
**Established** [1] -  
80:10  
**establishing** [1] -  
111:16  
**estimate** [1] - 78:13  
**evening** [9] - 3:8,  
10:6, 13:15, 18:16,  
49:2, 63:6, 69:3,  
72:13, 88:21  
**event** [2] - 3:9,  
120:16  
**events** [3] - 41:20,  
52:15, 85:19  
**eventually** [1] -  
11:25  
**evergreens** [5] -  
4:23, 5:4, 5:9, 5:11,  
5:20  
**everywhere** [1] -  
57:22  
**exact** [2] - 81:15,  
104:17  
**exactly** [3] - 49:14,  
76:12, 85:13  
**example** [3] - 59:25,  
64:21, 95:20  
**exceed** [1] - 112:17  
**exceeding** [1] - 71:8  
**excess** [1] - 71:6  
**excitement** [2] -  
89:21, 91:11  
**excuse** [2] - 14:17,  
50:13  
**existed** [1] - 83:10  
**existing** [17] - 16:15,  
16:16, 22:8, 24:3,  
30:13, 44:8, 44:9,  
45:25, 55:4, 69:20,  
71:19, 76:17, 86:24,  
101:17, 101:22,  
102:4, 102:13  
**exit** [1] - 102:14  
**expand** [2] - 100:2,  
111:15  
**expanded** [1] - 99:8  
**expansion** [3] -  
26:23, 26:25, 100:4  
**expect** [2] - 5:23,  
94:16  
**expected** [1] -  
108:24  
**expensive** [1] - 22:7  
**experienced** [1] -  
59:19  
**explain** [3] - 7:17,  
21:25, 47:21  
**explained** [2] - 65:8,  
91:22  
**exposure** [1] - 68:10  
**express** [2] - 59:17,  
61:17  
**extend** [6] - 2:22,  
2:23, 54:5, 98:6, 98:7,  
118:4  
**extended** [1] - 27:11  
**extends** [1] - 115:19  
**extension** [1] - 22:5  
**exterior** [3] - 19:11,  
31:3, 42:21  
**external** [1] - 30:21  
**extra** [1] - 17:16  
**eyes** [2] - 72:14,  
94:20  
**facade** [4] - 44:20,  
44:22, 46:11, 46:12  
**face** [10] - 60:3, 73:5,  
77:22, 88:18, 89:5,  
102:14, 115:7,  
115:16, 117:7, 117:17  
**faces** [1] - 101:13  
**facilities** [6] - 19:8,  
23:12, 32:7, 109:12,  
117:21, 120:12  
**facility** [4] - 18:23,  
63:25, 88:24, 117:15  
**facing** [4] - 71:24,  
74:21, 75:11, 95:2  
**fact** [6] - 23:2, 35:19,  
52:23, 75:23, 110:24,  
111:19  
**FACT** [10] - 98:14,

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

101:10, 104:15,  
106:13, 108:12,  
110:14, 113:11,  
115:12, 117:12,  
119:12  
**factor** [1] - 83:2  
**factual** [1] - 87:6  
**fairly** [4] - 18:25,  
19:22, 20:25, 23:23  
**fake** [1] - 82:19  
**fall** [1] - 82:9  
**falls** [1] - 90:13  
**families** [1] - 73:16  
**fantastic** [2] - 65:17,  
81:5  
**far** [9] - 21:17, 31:3,  
33:17, 33:24, 49:6,  
57:4, 66:16, 70:5,  
78:12  
**fashion** [1] - 107:6  
**fast** [4] - 39:24, 41:9,  
85:18, 110:7  
**fast-casual** [1] - 41:9  
**faux** [2] - 5:25, 6:16  
**FCC** [1] - 26:20  
**February** [1] - 121:4  
**feedback** [3] - 10:13,  
10:17, 101:14  
**feet** [24] - 5:10, 5:21,  
14:10, 14:21, 15:14,  
15:16, 19:18, 19:20,  
20:21, 20:22, 20:23,  
26:18, 28:3, 28:5,  
67:25, 70:22, 80:14,  
80:15, 81:15, 102:5,  
104:13, 104:14  
**fell** [1] - 76:8  
**fence** [2] - 25:2, 25:8  
**few** [5] - 64:13, 79:6,  
81:15, 102:4  
**field** [5] - 74:6,  
74:12, 86:20, 86:22,  
116:8  
**fieldstone** [1] - 82:13  
**fifth** [1] - 41:8  
**figure** [2] - 12:2, 51:7  
**file** [21] - 2:25, 10:5,  
13:14, 18:15, 28:25,  
40:5, 63:5, 69:2, 73:7,  
88:20, 98:9, 100:5,  
101:7, 104:9, 106:10,  
108:9, 110:11, 113:8,  
115:9, 117:9, 119:9  
**fill** [1] - 27:14  
**filled** [1] - 67:11  
**final** [2] - 9:15  
**finally** [2] - 82:25,  
83:22  
**financial** [1] - 30:3  
**financially** [1] -  
122:13  
**FINDINGS** [10] -  
98:14, 101:10,  
104:15, 106:13,  
108:12, 110:14,  
113:11, 115:12,  
117:12, 119:12  
**fine** [3] - 14:2, 65:22,  
87:2  
**finish** [3] - 65:15,  
86:13, 89:24  
**finished** [2] - 16:12,  
56:4  
**firm** [1] - 18:18  
**first** [10] - 2:14, 2:18,  
29:18, 33:18, 40:20,  
60:11, 68:5, 74:11,  
91:23, 108:21  
**first-floor** [1] -  
108:21  
**fit** [2] - 7:4, 27:9  
**five** [1] - 65:22  
**flagpole** [1] - 87:12  
**flat** [1] - 34:11  
**flattop** [1] - 45:23  
**floor** [11] - 7:9,  
29:18, 35:3, 35:4,  
36:8, 37:22, 50:8,  
50:17, 68:2, 68:6,  
108:21  
**flooring** [1] - 35:8  
**flows** [2] - 35:25,  
36:17  
**focus** [1] - 22:15  
**folks** [6] - 9:20,  
11:21, 12:3, 38:15,  
40:21, 57:23  
**follow** [1] - 21:21  
**following** [2] - 97:18,  
97:19  
**food** [4] - 41:19,  
41:24, 42:15, 58:12  
**foods** [1] - 112:14  
**foolish** [1] - 81:2  
**foot** [6] - 5:22, 14:14,  
17:17, 28:6, 30:24,  
70:20  
**footprint** [4] - 4:5,  
40:12, 44:17, 48:5  
**Forbes** [2] - 1:24,  
97:22  
**forced** [1] - 69:21  
**foregoing** [1] - 122:6  
**forget** [1] - 34:8  
**formation** [1] - 20:11  
**former** [1] - 76:3  
**forth** [3] - 21:22,  
45:24, 67:10  
**forward** [1] - 59:20  
**foundation** [6] -  
4:25, 5:13, 14:9, 15:8,  
15:15, 17:21  
**four** [8] - 9:10, 65:13,  
65:18, 65:20, 66:15,  
66:18, 69:11, 120:8  
**four-month** [1] -  
66:15  
**fragile** [1] - 119:16  
**frankly** [1] - 83:21  
**free** [5] - 24:22,  
32:24, 68:23, 113:6,  
115:8  
**Freelance** [1] -  
122:24  
**freestanding** [3] -  
73:6, 83:7, 116:4  
**freezer** [1] - 44:4  
**frequencies** [2] -  
26:20, 26:23  
**frequently** [1] - 37:2  
**fresh** [1] - 44:4  
**fried** [2] - 42:15,  
112:14  
**front** [15] - 2:22,  
26:3, 26:18, 30:22,  
67:24, 69:12, 82:8,  
83:12, 98:6, 99:4,  
99:11, 99:14, 102:7,  
115:24, 119:21  
**frontage** [1] - 5:5  
**frozen** [3] - 40:2,  
110:9, 110:19  
**fryer** [4] - 42:15,  
55:5, 55:6, 55:8  
**frying** [1] - 111:13  
**ft** [18] - 2:22, 2:23,  
2:24, 13:11, 13:12,  
28:24, 88:17, 88:18,  
98:6, 98:7, 98:8,  
104:6, 104:7, 108:8,  
117:6, 117:7  
**full** [5] - 27:16,  
29:20, 32:12, 32:13,  
63:17  
**full-sized** [1] - 29:20  
**fully** [3] - 15:25,  
20:18, 35:14  
**fumes** [2] - 42:11,  
42:13  
**fun** [1] - 57:13  
**function** [1] - 36:22  
**functional** [2] -  
81:18, 84:19  
**functioning** [1] -  
111:8  
**funny** [1] - 56:14  
**furnace** [1] - 34:12  
**future** [4] - 26:25,  
52:11, 66:11, 95:5  
**G-H-O-R-Y** [1] -  
73:12  
**garage** [54] - 13:11,  
14:6, 14:11, 14:12,  
14:23, 14:25, 15:6,  
15:12, 15:17, 15:19,  
15:20, 16:2, 16:11,  
17:19, 17:24, 28:23,  
29:9, 29:11, 29:12,  
30:13, 30:15, 30:16,  
30:17, 30:22, 30:23,  
31:5, 31:8, 31:9,  
31:12, 31:13, 31:16,  
33:25, 34:9, 34:23,  
35:17, 35:19, 37:23,  
66:11, 66:12, 104:6,  
104:12, 104:16,  
104:19, 104:21,  
105:7, 105:10, 108:7,  
108:14, 108:16,  
108:17, 109:8,  
119:21, 119:24  
**garages** [1] - 104:25  
**gas** [2] - 109:10,  
120:16  
**gases** [1] - 112:8  
**gatherings** [1] -  
47:24  
**general** [3] - 5:22,  
117:22, 120:18  
**generally** [3] - 5:20,  
66:25, 96:10  
**generic** [1] - 86:14  
**GENESEE** [1] -  
122:3  
**Genesee** [3] - 10:7,  
122:15, 122:25  
**gentlemen** [3] -  
18:17, 59:5, 79:21  
**geometric** [1] - 99:21  
**GHORY** [5] - 73:10,  
76:6, 76:24, 79:8,  
79:22  
**Ghory** [1] - 73:10  
**gilling** [1] - 43:4  
**given** [9] - 51:11,  
60:7, 60:22, 100:6,  
105:5, 109:7, 114:3,  
118:3, 121:7  
**glare** [1] - 71:24  
**glass** [4] - 32:2,  
37:13, 37:14, 45:17  
**goals** [1] - 55:11  
**Goodman** [1] - 8:6  
**gorgeous** [1] - 82:9  
**government** [1] -  
117:21  
**governmental** [1] -  
120:12  
**grains** [2] - 41:11,  
41:25  
**grant** [1] - 99:17  
**granted** [7] - 28:23,  
50:10, 76:17, 79:5,  
102:18, 108:7, 111:5  
**granting** [4] - 98:15,  
118:7, 120:10, 120:20  
**grease** [2] - 55:15,  
55:23  
**great** [9] - 33:4,  
40:18, 41:22, 54:6,  
54:7, 54:8, 57:25,  
59:4, 81:7  
**greatest** [1] - 115:21  
**Greece** [1] - 41:14  
**green** [6] - 10:20,  
75:9, 75:13, 75:14,  
101:18  
**greenhouses** [6] -  
89:7, 89:23, 91:8,  
93:12, 93:14, 117:14  
**greenroom** [3] - 4:9,  
6:18, 8:24  
**greens** [1] - 41:25  
**Grill** [1] - 40:10  
**grill** [3] - 42:4, 42:19,  
42:25  
**grilling** [1] - 60:11  
**grommets** [3] - 94:4,  
94:9, 94:16  
**ground** [7] - 20:20,  
25:19, 25:20, 71:18,  
71:23, 75:11, 92:15  
**group** [5] - 12:3,  
47:24, 52:24, 53:25,  
56:16  
**grown** [3] - 10:25,  
11:8, 20:18  
**growth** [1] - 5:23  
**guard** [1] - 33:8  
**guess** [3] - 70:13,  
70:14, 78:14  
**gut** [1] - 48:11  
**gutter** [1] - 17:25  
**guys** [9] - 9:3, 23:22,  
32:11, 40:15, 45:10,  
48:16, 49:11, 53:23,  
55:5  
**gym** [1] - 83:14  
**gymnasium** [2] -  
79:6, 79:10

## EDITH FORBES COURT REPORTING SERVICES

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**half** [1] - 14:12, 14:23, 17:17, 24:17, 29:11, 30:12, 30:17, 30:22, 30:23, 31:5, 108:13  
**Hall** [2] - 1:5, 97:5  
**hall** [4] - 6:5, 6:16, 6:22, 99:20  
**hallway** [1] - 37:11  
**halo** [1] - 12:15  
**hand** [5] - 15:18, 26:5, 26:8, 82:13, 122:14  
**hand-built** [1] - 82:13  
**handful** [1] - 85:20  
**hang** [1] - 8:20  
**happy** [3] - 4:16, 30:5, 49:17  
**hard** [5] - 14:3, 52:4, 63:25, 82:19, 96:2  
**hard-edged** [1] - 82:19  
**harder** [1] - 56:13  
**hardship** [3] - 30:3, 110:22, 111:14  
**hardwoods** [1] - 5:5  
**Harley** [13] - 73:2, 75:5, 75:9, 80:10, 81:5, 81:16, 84:2, 84:16, 84:22, 85:7, 86:17, 115:4, 115:13  
**harmonious** [1] - 105:10  
**HAROLD** [4] - 69:3, 71:17, 72:4, 72:17  
**Harold** [1] - 69:4  
**harvest** [1] - 86:22  
**Hatfield** [1] - 28:4  
**Havens** [7] - 3:14, 4:3, 5:2, 5:25, 98:23, 99:11, 99:13  
**hazard** [1] - 71:14  
**head** [4] - 11:15, 50:2, 73:11, 91:5  
**heading** [1] - 70:6  
**headquarters** [2] - 82:18, 101:15  
**health** [6] - 41:21, 48:11, 109:2, 117:22, 120:18  
**healthy** [3] - 41:18, 46:20, 57:22  
**hear** [3] - 13:17, 77:8, 96:2  
**heard** [1] - 76:8  
**hearing** [9] - 10:12, 28:16, 39:18, 60:10, 62:21, 68:18, 72:22, 88:11, 96:17  
**HEARING** [2] - 3:2, 98:10  
**heat** [1] - 35:15  
**heated** [3] - 32:23, 34:7, 37:8  
**heating** [2] - 34:14, 35:11  
**heavy** [1] - 23:23  
**heavy-duty** [1] - 23:23  
**height** [7] - 5:7, 5:14, 19:18, 19:19, 60:6, 60:22, 102:6  
**HELD** [2] - 1:2, 97:2  
**hello** [2] - 3:4, 29:2  
**help** [3] - 10:20, 13:25, 54:7  
**Henrietta** [1] - 41:14  
**hereby** [1] - 122:4  
**herself** [1] - 30:2  
**hi** [2] - 84:14, 91:3  
**high** [1] - 67:25  
**higher** [1] - 61:9  
**highlight** [1] - 4:19  
**highly** [1] - 12:3  
**Hill** [2] - 69:12, 73:11  
**historical** [1] - 79:17  
**history** [1] - 76:7  
**hold** [1] - 94:10  
**holds** [1] - 93:4  
**hole** [1] - 64:24  
**holes** [1] - 79:11  
**Home** [5] - 88:14, 88:23, 89:8, 89:25, 117:3  
**home** [23] - 20:24, 29:16, 30:4, 30:10, 30:15, 30:16, 31:10, 31:11, 31:13, 31:16, 31:20, 32:19, 33:13, 38:22, 59:19, 60:13, 60:19, 62:7, 62:11, 62:14, 92:18, 119:13, 120:22  
**homes** [1] - 93:16  
**honestly** [1] - 90:17  
**honorable** [1] - 79:25  
**hood** [2] - 42:19, 42:22  
**hope** [1] - 57:10  
**hopefully** [1] - 9:15  
**hoping** [2] - 41:15, 65:18  
**horizontal** [1] - 34:12  
**horrible** [1] - 71:24  
**hospital** [2] - 29:14, 30:7  
**hotspot** [1] - 22:15  
**hours** [14] - 47:7, 47:10, 47:14, 49:2, 50:22, 51:9, 51:13, 56:6, 64:9, 64:13, 111:24, 111:25, 112:4, 112:6  
**House** [1] - 80:16  
**house** [47] - 15:20, 16:15, 16:16, 16:17, 16:21, 16:25, 17:6, 32:4, 32:15, 33:3, 33:5, 34:17, 34:20, 35:24, 35:25, 36:2, 36:18, 36:24, 37:14, 38:22, 59:15, 60:3, 60:7, 60:8, 60:15, 60:18, 61:10, 63:11, 63:15, 63:19, 64:2, 64:16, 67:6, 74:6, 74:12, 80:11, 104:22, 105:11, 109:11, 116:8, 119:15, 119:19, 120:3, 120:16, 120:23  
**houses** [1] - 80:19  
**housing** [2] - 78:11, 108:20  
**hundredth** [1] - 73:18  
**HVAC** [2] - 19:21, 54:24  
**ID** [5] - 72:25, 73:8, 77:10, 86:11, 115:3  
**idea** [3] - 3:16, 48:4, 80:25  
**ideal** [1] - 30:10  
**identification** [2] - 68:23, 113:6  
**identify** [2] - 70:9, 74:7  
**identifying** [1] - 75:24  
**IG** [1] - 19:7  
**illuminated** [3] - 83:3, 83:7, 83:11  
**illumination** [3] - 82:25, 83:18, 83:23  
**imagine** [2] - 3:18, 34:21  
**immediate** [1] - 22:15  
**immediately** [1] - 93:25  
**impact** [11] - 15:5, 23:2, 23:3, 40:13, 42:11, 60:12, 60:14, 61:6, 61:14, 61:22, 115:16  
**impacted** [1] - 106:17  
**impetus** [1] - 35:19  
**impossible** [1] - 70:9  
**impromptu** [1] - 69:17  
**improper** [1] - 83:4  
**improve** [2] - 15:6, 102:11  
**improved** [1] - 101:20  
**Inc** [2] - 73:2, 115:4  
**inches** [5] - 19:15, 70:20, 78:15, 80:14  
**inclement** [1] - 93:6  
**inclined** [1] - 3:19  
**included** [3] - 3:13, 3:24, 50:14  
**including** [2] - 109:10, 112:16  
**increase** [2] - 117:23, 120:10  
**indirectly** [1] - 71:17  
**individual** [1] - 33:2  
**indoors** [1] - 57:18  
**industrial** [1] - 106:15  
**Infirmary** [2] - 88:14, 117:3  
**influence** [1] - 51:22  
**inform** [1] - 90:7  
**information** [4] - 27:23, 56:21, 79:14, 97:17  
**ingredients** [1] - 42:8  
**initiatives** [1] - 41:21  
**inside** [8] - 23:5, 23:8, 23:9, 23:16, 24:10, 63:19, 90:14, 112:16  
**insignificant** [1] - 66:14  
**install** [3] - 34:15, 88:17, 117:6  
**installation** [1] - 120:7  
**installed** [3] - 94:10, 108:17, 109:12  
**instance** [1] - 49:6  
**instead** [1] - 83:15  
**institution** [3] - 74:7, 81:4, 81:5  
**insulate** [1] - 34:12  
**insulated** [2] - 34:10, 37:8  
**insulation** [4] - 35:3, 37:20, 37:21, 37:22  
**intact** [1] - 17:13  
**integral** [4] - 32:15, 32:18, 33:12, 35:24  
**intense** [1] - 111:19  
**intent** [2] - 79:7, 91:18  
**interested** [2] - 26:22, 122:13  
**interesting** [1] - 80:9  
**interests** [1] - 75:6  
**interfere** [4] - 27:11, 28:18, 33:12, 35:24  
**interfering** [1] - 75:17  
**interior** [3] - 31:16, 67:17, 76:10  
**interiorly** [1] - 104:25  
**intrusive** [3] - 77:2, 77:18, 81:23  
**investigating** [1] - 33:19  
**Irving** [2] - 68:20, 113:3  
**isolate** [1] - 35:4  
**issue** [9] - 11:25, 21:17, 21:19, 27:15, 53:13, 81:24, 87:7, 95:22  
**issues** [3] - 4:13, 8:19, 46:2  
**it'd** [2] - 26:5, 36:19  
**it'll** [1] - 61:6  
**items** [1] - 66:24  
**itself** [8] - 19:14, 24:12, 33:13, 34:9, 35:20, 89:17, 115:23  
**Jane** [1] - 91:3  
**Jean** [4] - 13:8, 13:16, 13:19, 104:3  
**JEANNE** [2] - 1:10, 97:9  
**Jewish** [6] - 88:14, 88:23, 89:8, 89:25, 91:16, 117:3  
**job** [2] - 63:22, 82:24  
**Joe** [3] - 3:10, 5:16, 7:20  
**John** [1] - 43:17  
**Jones** [12] - 2:13, 100:12, 103:2, 105:15, 107:11, 109:21, 112:23, 114:8, 116:14, 118:14, 121:8, 121:11

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

**JONES** [5] - 1:12, 95:14, 95:17, 96:3, 97:11  
**Joseph** [1] - 38:12  
**JR** [2] - 1:12, 97:11  
**Judy** [1] - 55:4  
**JUDY** [2] - 1:10, 97:11  
**Judy's** [1] - 23:14  
**July/August** [1] - 93:13  
**June** [1] - 93:7  
**K-O-E-G-E-L** [1] - 80:3  
**KANACK** [5] - 6:5, 6:9, 6:12, 6:15, 6:24  
**Kanack** [4] - 2:19, 3:6, 6:12, 98:3  
**keep** [5] - 8:9, 8:14, 24:19, 87:3, 90:3  
**keeping** [7] - 20:3, 51:17, 83:4, 83:16, 83:20, 87:18, 91:25  
**keeps** [1] - 25:3  
**Ken** [2] - 25:6, 25:23  
**kept** [2] - 32:20, 112:7  
**kettles** [1] - 42:6  
**kick** [1] - 53:9  
**kid** [1] - 64:11  
**kidding** [1] - 93:8  
**kind** [19] - 3:19, 5:7, 5:14, 26:8, 33:8, 45:17, 48:14, 49:16, 49:23, 53:9, 55:3, 56:24, 57:23, 69:17, 70:12, 70:14, 70:25, 71:3, 92:6  
**kitchen** [4] - 32:10, 32:14, 68:5, 109:12  
**kitchenette** [1] - 32:7  
**KNICKERBOCKER** [12] - 91:3, 92:2, 92:16, 92:25, 93:11, 93:24, 94:15, 94:23, 95:8, 95:16, 95:24, 96:7  
**Knickerbocker** [1] - 91:4  
**knocked** [1] - 85:12  
**known** [1] - 84:22  
**KOEGEL** [9] - 79:25, 84:11, 87:3, 87:6, 87:10, 87:22, 88:2, 88:4, 88:9  
**Koegel** [2] - 80:3, 80:16  
**L.P** [2] - 18:9, 106:3  
**ladies** [1] - 18:16  
**laid** [1] - 21:7  
**landscaped** [1] - 99:6  
**landscaping** [4] - 4:3, 4:19, 5:3, 70:13  
**LandTech** [1] - 3:5  
**Lane** [1] - 6:13  
**large** [9] - 12:2, 20:24, 61:7, 66:10, 66:21, 67:2, 83:11, 90:17, 94:24  
**larger** [8] - 24:19, 25:16, 69:8, 70:23, 71:13, 99:14, 113:21  
**last** [12] - 3:15, 4:5, 4:10, 4:14, 43:19, 50:13, 53:25, 73:12, 83:22, 84:2, 90:19, 94:13  
**latch** [1] - 43:25  
**latest** [2] - 8:24, 50:13  
**latitude** [1] - 87:9  
**LAUREN** [4] - 1:23, 97:22, 122:4, 122:23  
**law** [2] - 18:18, 21:5  
**layer** [1] - 64:3  
**layout** [1] - 104:20  
**lead** [2] - 64:20, 91:8  
**leaf** [1] - 81:17  
**lease** [4] - 20:20, 24:19, 26:9, 26:15  
**leased** [2] - 19:13, 24:8  
**leases** [1] - 26:19  
**least** [4] - 76:25, 78:13, 82:20, 89:23  
**leave** [2] - 53:15, 64:16  
**LED** [1] - 77:20  
**LEDs** [1] - 78:7  
**left** [5] - 15:18, 26:8, 30:7, 65:6, 85:17  
**left-hand** [2] - 15:18, 26:8  
**legal** [2] - 21:3, 21:7  
**Leit** [15] - 100:12, 103:2, 105:12, 105:15, 107:8, 107:11, 108:10, 109:21, 112:23, 114:5, 114:8, 116:14, 117:10, 118:14, 121:11  
**LEIT** [10] - 1:11, 35:11, 35:22, 36:14, 36:21, 37:3, 37:11, 43:2, 65:13, 97:10  
**length** [1] - 60:2  
**less** [3] - 40:13, 75:17, 111:19  
**lessee** [2] - 18:9, 106:4  
**letter** [5] - 15:24, 38:13, 39:7, 47:23, 113:18  
**lettering** [5] - 69:9, 70:19, 70:23, 76:11, 79:9  
**letters** [5] - 38:15, 38:19, 65:10, 75:13, 79:11  
**lettuce** [1] - 41:11  
**level** [2] - 94:14, 108:21  
**lies** [1] - 64:15  
**lieu** [6] - 13:12, 14:21, 68:24, 104:7, 104:14, 113:7  
**life** [1] - 60:16  
**lifestyle** [1] - 41:17  
**light** [9] - 60:9, 61:11, 71:23, 77:12, 77:22, 77:23, 78:10, 78:23  
**lighted** [2] - 71:16, 84:21  
**lighten** [1] - 98:23  
**lighting** [11] - 12:15, 71:19, 72:5, 76:22, 77:4, 77:13, 78:18, 85:3, 92:14, 92:15, 116:6  
**lights** [6] - 71:18, 72:5, 72:11, 75:10, 75:16, 84:2  
**likely** [1] - 98:23  
**limit** [1] - 54:10  
**limited** [3] - 47:14, 112:2, 116:6  
**limiting** [1] - 95:4  
**line** [14] - 3:25, 5:4, 11:4, 13:12, 14:10, 41:9, 45:23, 56:24, 57:11, 90:13, 102:12, 104:7, 104:13, 105:2  
**list** [1] - 56:25  
**listen** [2] - 57:3, 58:5  
**lit** [3] - 71:17, 71:22, 118:10  
**literally** [1] - 11:12  
**livable** [2] - 36:8, 109:15  
**live** [13] - 6:12, 29:15, 46:23, 59:14, 63:19, 73:11, 80:4, 80:18, 84:15, 88:22, 91:4, 120:24  
**lived** [1] - 80:5  
**lives** [1] - 29:24  
**living** [20] - 28:24, 29:12, 29:24, 30:8, 30:9, 30:10, 31:8, 31:14, 31:19, 32:6, 33:21, 33:22, 34:2, 36:11, 36:16, 37:18, 60:17, 108:8, 108:14, 109:13  
**LLC** [4] - 9:25, 39:21, 101:3, 110:4  
**local** [1] - 41:19  
**locate** [1] - 71:15  
**located** [27] - 2:20, 10:2, 11:11, 13:9, 18:11, 18:13, 19:5, 19:12, 28:20, 39:22, 62:24, 68:21, 73:3, 88:15, 98:4, 101:4, 104:4, 105:2, 106:5, 106:8, 108:4, 110:5, 113:4, 115:5, 117:4, 119:4, 121:5  
**location** [23] - 12:6, 24:3, 48:7, 73:19, 76:14, 94:21, 99:8, 101:25, 102:3, 102:4, 102:6, 102:11, 104:16, 104:17, 104:25, 105:6, 106:17, 110:21, 111:18, 113:16, 114:4, 115:20  
**locations** [3] - 48:13, 56:22, 58:9  
**lock** [1] - 43:25  
**locked** [1] - 32:25  
**logo** [1] - 81:16  
**long-term-care** [1] - 93:15  
**look** [26] - 3:16, 3:22, 7:25, 8:13, 11:14, 11:16, 17:11, 17:23, 24:14, 25:14, 26:2, 45:15, 50:7, 60:24, 61:20, 61:22, 70:3, 72:12, 83:21, 85:17, 87:14, 87:16, 93:23, 94:25, 95:11, 96:11  
**looked** [5] - 30:15, 46:6, 46:7, 60:5, 80:22  
**looking** [15] - 7:7, 8:14, 11:18, 19:10, 24:13, 25:7, 26:4, 29:13, 40:7, 64:17, 71:2, 75:3, 82:17, 84:25, 91:7  
**looks** [9] - 24:16, 25:15, 25:16, 43:4, 45:16, 45:23, 82:17, 82:20, 87:15  
**lose** [3] - 60:20, 62:12, 62:13  
**lost** [1] - 81:18  
**loud** [1] - 111:11  
**love** [1] - 57:9  
**lovely** [2] - 81:17, 82:2  
**low** [1] - 42:6  
**lunch** [5] - 52:15, 56:9, 56:10, 56:19, 57:10  
**ma'am** [1] - 6:6  
**machine** [1] - 122:5  
**macro** [1] - 22:16  
**main** [8] - 7:8, 35:18, 51:2, 53:3, 74:6, 75:19, 75:24, 109:11  
**maintain** [3] - 24:20, 24:24, 52:12  
**maintenance** [2] - 42:6, 112:12  
**major** [2] - 60:5, 60:14  
**majority** [2] - 58:20, 68:7  
**MALBONE** [19] - 40:6, 40:24, 44:7, 44:13, 44:18, 44:21, 44:25, 45:6, 45:9, 45:13, 46:2, 46:9, 46:15, 46:21, 47:5, 54:23, 55:11, 55:23, 59:6  
**Malbone** [1] - 40:6  
**Management** [1] - 69:5  
**management** [1] - 112:11  
**manager** [2] - 69:4, 69:14  
**MANSFIELD** [29] - 41:5, 42:3, 42:13, 42:17, 42:20, 42:23, 43:6, 43:15, 47:8, 47:11, 47:16, 47:20, 47:25, 48:5, 49:4, 49:8, 49:10, 49:25, 53:15, 53:22, 54:15, 55:7, 56:10, 57:3, 58:4, 58:10, 58:15,

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58:21, 58:24  
**Mansfield** [1] - 41:5  
**maple** [1] - 17:12  
**Marc** [2] - 28:20, 108:3  
**March** [2] - 52:5, 93:8  
**Mark** [2] - 29:2, 88:22  
**marked** [1] - 51:7  
**market** [2] - 41:13, 90:5  
**marketing** [3] - 90:5, 90:6, 91:5  
**Marquez** [2] - 72:25, 115:3  
**MARTIN** [6] - 3:4, 4:21, 5:9, 5:20, 9:17, 9:23  
**Martin** [1] - 3:4  
**mason** [3] - 86:15, 86:21  
**massive** [1] - 82:4  
**match** [5] - 16:14, 16:18, 17:5, 45:14, 115:22  
**matches** [1] - 45:20  
**material** [2] - 83:25, 89:14  
**materials** [6] - 4:16, 5:16, 8:5, 45:21, 46:16, 115:23  
**matter** [4] - 10:8, 53:5, 60:24, 112:9  
**mature** [1] - 20:18  
**maturity** [1] - 5:9  
**maximum** [3] - 68:24, 112:16, 113:7  
**mean** [8] - 24:13, 32:21, 45:23, 52:14, 53:12, 55:22, 62:4, 90:8  
**means** [3] - 55:13, 81:23, 82:22  
**measure** [1] - 27:17  
**meat** [1] - 42:18  
**mechanically** [1] - 89:15  
**mechanicals** [2] - 54:21, 54:24  
**medically** [1] - 119:16  
**medically-fragile** [1] - 119:16  
**meet** [4] - 7:23, 51:12, 54:3, 113:18  
**MEETING** [2] - 3:2, 98:10  
**meeting** [5] - 2:5, 8:8, 49:7, 60:25, 111:23  
**meetings** [1] - 7:24  
**meets** [1] - 37:17  
**member** [1] - 2:14  
**members** [7] - 2:11, 2:13, 13:25, 40:18, 56:3, 59:2, 80:2  
**message** [2] - 49:11, 92:9  
**met** [3] - 3:15, 4:5, 44:25  
**metal** [1] - 59:25  
**method** [1] - 99:17  
**Metro** [5] - 18:9, 18:11, 18:23, 106:4, 106:6  
**MICHAEL** [2] - 1:12, 97:11  
**Michael** [4] - 13:8, 13:15, 13:18, 104:3  
**MICHAELS** [7] - 10:6, 12:14, 12:17, 12:19, 12:22, 13:2, 13:6  
**Michaels** [1] - 10:7  
**microscopic** [1] - 5:7  
**mid** [1] - 50:11  
**Mietz** [12] - 100:11, 102:25, 104:10, 105:14, 107:10, 109:20, 112:22, 113:9, 114:7, 116:13, 118:13, 121:10  
**MIETZ** [111] - 1:9, 2:2, 2:9, 2:12, 4:18, 5:6, 6:6, 6:10, 6:14, 7:14, 8:23, 9:19, 12:15, 12:18, 12:20, 12:23, 13:4, 13:17, 13:22, 13:24, 14:17, 15:22, 16:8, 16:19, 16:22, 17:2, 17:5, 17:16, 18:2, 25:9, 25:25, 27:3, 28:13, 29:4, 34:5, 34:24, 35:6, 35:16, 36:4, 36:19, 37:10, 38:2, 39:5, 39:11, 39:15, 40:20, 41:2, 42:18, 42:21, 45:7, 45:12, 50:19, 51:4, 52:17, 53:4, 53:9, 53:21, 54:13, 54:18, 55:20, 56:2, 56:21, 58:8, 58:13, 58:23, 58:25, 59:5, 59:7, 59:10, 61:5, 61:18, 62:2, 62:4, 62:5, 62:7, 62:9, 62:10, 62:15, 62:16, 62:17, 63:6, 65:12, 65:17, 66:3, 66:6, 66:15, 66:19, 66:21, 67:4, 67:16, 67:21, 68:12, 69:3, 71:17, 72:4, 72:15, 72:17, 72:19, 73:8, 73:10, 76:18, 76:20, 76:2, 26:7, 26:13, 26:19, 27:3, 27:6, 27:15, 27:22, 28:9, 28:13, 29:2, 29:4, 29:6, 31:9, 31:21, 31:25, 32:8, 32:11, 33:14, 34:5, 34:9, 34:24, 35:2, 35:6, 35:9, 35:14, 35:16, 35:18, 36:3, 36:4, 36:6, 36:9, 36:19, 36:21, 36:25, 37:6, 37:10, 37:12, 37:19, 38:2, 38:9, 38:11, 38:18, 38:21, 39:2, 39:4, 39:5, 39:6, 39:11, 39:13, 39:14, 39:15, 40:6, 40:20, 40:24, 41:2, 41:5, 42:3, 42:13, 42:17, 42:18, 42:20, 42:21, 42:23, 43:6, 43:15, 43:17, 43:19, 43:21, 44:7, 44:13, 44:18, 44:21, 44:25, 45:6, 45:7, 45:9, 45:12, 45:13, 46:2, 46:9, 46:15, 46:21, 47:5, 47:8, 47:11, 47:16, 47:20, 47:25, 48:4, 48:5, 49:4, 49:8, 49:10, 49:25, 50:6, 50:19, 50:21, 51:4, 51:5, 51:24, 52:13, 52:17, 52:18, 52:22, 53:4, 53:5, 53:9, 53:15, 53:21, 53:22, 54:13, 54:15, 54:18, 54:23, 55:3, 55:7, 55:8, 55:11, 55:16, 55:20, 55:23, 56:2, 56:7, 56:10, 56:21, 57:3, 58:4, 58:8, 58:10, 58:13, 58:15, 58:21, 58:23, 58:24, 58:25, 59:4, 59:5, 59:6, 59:7, 59:9, 59:10, 59:11, 61:5, 61:6, 61:18, 61:24, 62:2, 62:4, 62:5, 62:7, 62:9, 62:10, 62:15, 62:16, 62:17, 63:6, 65:12, 65:17, 66:3, 66:6, 66:15, 66:19, 66:21, 67:4, 67:16, 67:21, 68:12, 69:3, 71:17, 72:4, 72:15, 72:17, 72:19, 73:8, 73:10, 76:18, 76:20, 60:25, 63:3, 66:15, 119:7  
**months** [7] - 6:2, 6:21, 65:14, 65:18, 65:20, 65:22, 66:18  
**Morgan** [3] - 68:21, 69:4, 113:4  
**morning** [1] - 53:18  
**mornings** [1] - 47:12  
**mortgage** [1] - 12:3  
**most** [7] - 5:11, 5:15, 39:2, 45:10, 54:23, 57:8, 81:23  
**mother** [3] - 29:13, 36:23, 108:15  
**Motion** [10] - 98:12, 101:8, 104:10, 106:11, 108:10, 110:12, 113:9, 115:10, 117:10, 119:10  
**motion** [11] - 64:2, 100:13, 103:3, 105:16, 107:12, 109:22, 112:24, 114:9, 116:16, 118:15, 121:12  
**motorists** [1] - 115:21  
**mouth** [1] - 23:18  
**move** [4] - 17:14, 23:22, 57:11, 69:21  
**moved** [1] - 102:10  
**moving** [1] - 79:14  
**MR** [319] - 2:2, 2:6, 2:9, 2:10, 2:12, 3:4, 4:18, 4:21, 5:6, 5:9, 5:20, 6:6, 6:10, 6:14, 7:14, 7:15, 7:20, 8:23, 9:2, 9:7, 9:9, 9:17, 9:19, 9:22, 9:23, 12:15, 12:18, 12:20, 12:23, 13:4, 13:15, 13:17, 13:18, 13:22, 13:23, 13:24, 14:5, 14:17, 14:19, 14:22, 15:22, 15:23, 16:4, 16:6, 16:8, 16:10, 16:13, 16:16, 16:19, 16:20, 16:22, 16:24, 17:2, 17:4, 17:5, 17:7, 17:10, 17:16, 17:20, 18:2, 18:5, 18:16, 22:3, 23:7, 23:19, 24:4, 24:18, 25:5, 25:7, 25:9, 25:17, 25:21, 25:23, 25:25, 26:2, 26:7, 26:13, 26:19, 27:3, 27:6, 27:15, 27:22, 28:9, 28:13, 29:2, 29:4, 29:6, 31:9, 31:21, 31:25, 32:8, 32:11, 33:14, 34:5, 34:9, 34:24, 35:2, 35:6, 35:9, 35:14, 35:16, 35:18, 36:3, 36:4, 36:6, 36:9, 36:19, 36:21, 36:25, 37:6, 37:10, 37:12, 37:19, 38:2, 38:9, 38:11, 38:18, 38:21, 39:2, 39:4, 39:5, 39:6, 39:11, 39:13, 39:14, 39:15, 40:6, 40:20, 40:24, 41:2, 41:5, 42:3, 42:13, 42:17, 42:18, 42:20, 42:21, 42:23, 43:6, 43:15, 43:17, 43:19, 43:21, 44:7, 44:13, 44:18, 44:21, 44:25, 45:6, 45:7, 45:9, 45:12, 45:13, 46:2, 46:9, 46:15, 46:21, 47:5, 47:8, 47:11, 47:16, 47:20, 47:25, 48:4, 48:5, 49:4, 49:8, 49:10, 49:25, 50:6, 50:19, 50:21, 51:4, 51:5, 51:24, 52:13, 52:17, 52:18, 52:22, 53:4, 53:5, 53:9, 53:15, 53:21, 53:22, 54:13, 54:15, 54:18, 54:23, 55:3, 55:7, 55:8, 55:11, 55:16, 55:20, 55:23, 56:2, 56:7, 56:10, 56:21, 57:3, 58:4, 58:8, 58:10, 58:13, 58:15, 58:21, 58:23, 58:24, 58:25, 59:4, 59:5, 59:6, 59:7, 59:9, 59:10, 59:11, 61:5, 61:6, 61:18, 61:24, 62:2, 62:4, 62:5, 62:7, 62:9, 62:10, 62:15, 62:16, 62:17, 63:6, 65:12, 65:17, 66:3, 66:6, 66:15, 66:19, 66:21, 67:4, 67:16, 67:21, 68:12, 69:3, 71:17, 72:4, 72:15, 72:17, 72:19, 73:8, 73:10, 76:18, 76:20, 61:5, 61:18, 62:2, 62:5, 62:9, 62:15, 62:17, 65:12, 66:15, 66:18, 66:19, 66:21, 67:4, 67:8, 67:12, 67:15, 67:18, 67:21, 67:24, 67:27, 67:30, 67:33, 67:36, 67:39, 67:42, 67:45, 67:48, 67:51, 67:54, 67:57, 67:60, 67:63, 67:66, 67:69, 67:72, 67:75, 67:78, 67:81, 67:84, 67:87, 67:90, 67:93, 67:96, 67:99, 68:2, 68:5, 68:8, 68:11, 68:14, 68:17, 68:20, 68:23, 68:26, 68:29, 68:32, 68:35, 68:38, 68:41, 68:44, 68:47, 68:50, 68:53, 68:56, 68:59, 69:2, 69:5, 69:8, 69:11, 69:14, 69:17, 69:20, 69:23, 69:26, 69:29, 69:32, 69:35, 69:38, 69:41, 69:44, 69:47, 69:50, 69:53, 69:56, 69:59, 70:2, 70:5, 70:8, 70:11, 70:14, 70:17, 70:20, 70:23, 70:26, 70:29, 70:32, 70:35, 70:38, 70:41, 70:44, 70:47, 70:50, 70:53, 70:56, 70:59, 71:2, 71:5, 71:8, 71:11, 71:14, 71:17, 71:20, 71:23, 71:26, 71:29, 71:32, 71:35, 71:38, 71:41, 71:44, 71:47, 71:50, 71:53, 71:56, 71:59, 72:2, 72:5, 72:8, 72:11, 72:14, 72:17, 72:20, 72:23, 72:26, 72:29, 72:32, 72:35, 72:38, 72:41, 72:44, 72:47, 72:50, 72:53, 72:56, 72:59, 73:2, 73:5, 73:8, 73:11, 73:14, 73:17, 73:20, 73:23, 73:26, 73:29, 73:32, 73:35, 73:38, 73:41, 73:44, 73:47, 73:50, 73:53, 73:56, 73:59, 74:2, 74:5, 74:8, 74:11, 74:14, 74:17, 74:20, 74:23, 74:26, 74:29, 74:32, 74:35, 74:38, 74:41, 74:44, 74:47, 74:50, 74:53, 74:56, 74:59, 75:2, 75:5, 75:8, 75:11, 75:14, 75:17, 75:20, 75:23, 75:26, 75:29, 75:32, 75:35, 75:38, 75:41, 75:44, 75:47, 75:50, 75:53, 75:56, 75:59, 76:2, 76:5, 76:8, 76:11, 76:14, 76:17, 76:20, 76:23, 76:26, 76:29, 76:32, 76:35, 76:38, 76:41, 76:44, 76:47, 76:50, 76:53, 76:56, 76:59, 77:2, 77:5, 77:8, 77:11, 77:14, 77:17, 77:20, 77:23, 77:26, 77:29, 77:32, 77:35, 77:38, 77:41, 77:44, 77:47, 77:50, 77:53, 77:56, 77:59, 78:2, 78:5, 78:8, 78:11, 78:14, 78:17, 78:20, 78:23, 78:26, 78:29, 78:32, 78:35, 78:38, 78:41, 78:44, 78:47, 78:50, 78:53, 78:56, 78:59, 79:2, 79:5, 79:8, 79:11, 79:14, 79:17, 79:20, 79:23, 79:26, 79:29, 79:32, 79:35, 79:38, 79:41, 79:44, 79:47, 79:50, 79:53, 79:56, 79:59, 80:2, 80:5, 80:8, 80:11, 80:14, 80:17, 80:20, 80:23, 80:26, 80:29, 80:32, 80:35, 80:38, 80:41, 80:44, 80:47, 80:50, 80:53, 80:56, 80:59, 81:2, 81:5, 81:8, 81:11, 81:14, 81:17, 81:20, 81:23, 81:26, 81:29, 81:32, 81:35, 81:38, 81:41, 81:44, 81:47, 81:50, 81:53, 81:56, 81:59, 82:2, 82:5, 82:8, 82:11, 82:14, 82:17, 82:20, 82:23, 82:26, 82:29, 82:32, 82:35, 82:38, 82:41, 82:44, 82:47, 82:50, 82:53, 82:56, 82:59, 83:2, 83:5, 83:8, 83:11, 83:14, 83:17, 83:20, 83:23, 83:26, 83:29, 83:32, 83:35, 83:38, 83:41, 83:44, 83:47, 83:50, 83:53, 83:56, 83:59, 84:2, 84:5, 84:8, 84:11, 84:14, 84:17, 84:20, 84:23, 84:26, 84:29, 84:32, 84:35, 84:38, 84:41, 84:44, 84:47, 84:50, 84:53, 84:56, 84:59, 85:2, 85:5, 85:8, 85:11, 85:14, 85:17, 85:20, 85:23, 85:26, 85:29, 85:32, 85:35, 85:38, 85:41, 85:44, 85:47, 85:50, 85:53, 85:56, 85:59, 86:2, 86:5, 86:8, 86:11, 86:14, 86:17, 86:20, 86:23, 86:26, 86:29, 86:32, 86:35, 86:38, 86:41, 86:44, 86:47, 86:50, 86:53, 86:56, 86:59, 87:2, 87:5, 87:8, 87:11, 87:14, 87:17, 87:20, 87:23, 87:26, 87:29, 87:32, 87:35, 87:38, 87:41, 87:44, 87:47, 87:50, 87:53, 87:56, 87:59, 88:2, 88:5, 88:8, 88:11, 88:14, 88:17, 88:20, 88:23, 88:26, 88:29, 88:32, 88:35, 88:38, 88:41, 88:44, 88:47, 88:50, 88:53, 88:56, 88:59, 89:2, 89:5, 89:8, 89:11, 89:14, 89:17, 89:20, 89:23, 89:26, 89:29, 89:32, 89:35, 89:38, 89:41, 89:44, 89:47, 89:50, 89:53, 89:56, 89:59, 90:2, 90:5, 90:8, 90:11, 90:14, 90:17, 90:20, 90:23, 90:26, 90:29, 90:32, 90:35, 90:38, 90:41, 90:44, 90:47, 90:50, 90:53, 90:56, 90:59, 91:2, 91:5, 91:8, 91:11, 91:14, 91:17, 91:20, 91:23, 91:26, 91:29, 91:32, 91:35, 91:38, 91:41, 91:44, 91:47, 91:50, 91:53, 91:56, 91:59, 92:2, 92:5, 92:8, 92:11, 92:14, 92:17, 92:20, 92:23, 92:26, 92:29, 92:32, 92:35, 92:38, 92:41, 92:44, 92:47, 92:50, 92:53, 92:56, 92:59, 93:2, 93:5, 93:8, 93:11, 93:14, 93:17, 93:20, 93:23, 93:26, 93:29, 93:32, 93:35, 93:38, 93:41, 93:44, 93:47, 93:50, 93:53, 93:56, 93:59, 94:2, 94:5, 94:8, 94:11, 94:14, 94:17, 94:20, 94:23, 94:26, 94:29, 94:32, 94:35, 94:38, 94:41, 94:44, 94:47, 94:50, 94:53, 94:56, 94:59, 95:2, 95:5, 95:8, 95:11, 95:14, 95:17, 95:20, 95:23, 95:26, 95:29, 95:32, 95:35, 95:38, 95:41, 95:44, 95:47, 95:50, 95:53, 95:56, 95:59, 96:2, 96:5, 96:8, 96:11, 96:14, 96:17, 96:20, 96:23, 96:26, 96:29, 96:32, 96:35, 96:38, 96:41, 96:44, 96:47, 96:50, 96:53, 96:56, 96:59, 97:2, 97:5, 97:8, 97:11, 97:14, 97:17, 97:20, 97:23, 97:26, 97:29, 97:32, 97:35, 97:38, 97:41, 97:44, 97:47, 97:50, 97:53, 97:56, 97:59, 98:2, 98:5, 98:8, 98:11, 98:14, 98:17, 98:20, 98:23, 98:26, 98:29, 98:32, 98:35, 98:38, 98:41, 98:44, 98:47, 98:50, 98:53, 98:56, 98:59, 99:2, 99:5, 99:8, 99:11, 99:14, 99:17, 99:20, 99:23, 99:26, 99:29, 99:32, 99:35, 99:38, 99:41, 99:44, 99:47, 99:50, 99:53, 99:56, 99:59, 100:2, 100:5, 100:8, 100:11, 100:14, 100:17, 100:20, 100:23, 100:26, 100:29, 100:32, 100:35, 100:38, 100:41, 100:44, 100:47, 100:50, 100:53, 100:56, 100:59, 101:2, 101:5, 101:8, 101:11, 101:14, 101:17, 101:20, 101:23, 101:26, 101:29, 101:32, 101:35, 101:38, 101:41, 101:44, 101:47, 101:50, 101:53, 101:56, 101:59, 102:2, 102:5, 102:8, 102:11, 102:14, 102:17, 102:20, 102:23, 102:26, 102:29, 102:32, 102:35, 102:38, 102:41, 102:44, 102:47, 102:50, 102:53, 102:56, 102:59, 103:2, 103:5, 103:8, 103:11, 103:14, 103:17, 103:20, 103:23, 103:26, 103:29, 103:32, 103:35, 103:38, 103:41, 103:44, 103:47, 103:50, 103:53, 103:56, 103:59, 104:2, 104:5, 104:8, 104:11, 104:14, 104:17, 104:20, 104:23, 104:26, 104:29, 104:32, 104:35, 104:38, 104:41, 104:44, 104:47, 104:50, 104:53, 104:56, 104:59, 105:2, 105:5, 105:8, 105:11, 105:14, 105:17, 105:20, 105:23, 105:26, 105:29, 105:32, 105:35, 105:38, 105:41, 105:44, 105:47, 105:50, 105:53, 105:56, 105:59, 106:2, 106:5, 106:8, 106:11, 106:14, 106:17, 106:20, 106:23, 106:26, 106:29, 106:32, 106:35, 106:38, 106:41, 106:44, 106:47, 106:50, 106:53, 106:56, 106:59, 107:2, 107:5, 107:8, 107:11, 107:14, 107:17, 107:20, 107:23, 107:26, 107:29, 107:32, 107:35, 107:38, 107:41, 107:44, 107:47, 107:50, 107:53, 107:56, 107:59, 108:2, 108:5, 108:8, 108:11, 108:14, 108:17, 108:20, 108:23, 108:26, 108:29, 108:32, 108:35, 108:38, 108:41, 108:44, 108:47, 108:50, 108:53, 108:56, 108:59, 109:2, 109:5, 109:8, 109:11, 109:14, 109:17, 109:20, 109:23, 109:26, 109:29, 109:32, 109:35, 109:38, 109:41, 109:44, 109:47, 109:50, 109:53, 109:56, 109:59, 110:2, 110:5, 110:8, 110:11, 110:14, 110:17, 110:20, 110:23, 110:26, 110:29, 110:32, 110:35, 110:38, 110:41, 110:44, 110:47, 110:50, 110:53, 110:56, 110:59, 111:2, 111:5, 111:8, 111:11, 111:14, 111:17, 111:20, 111:23, 111:26, 111:29, 111:32, 111:35, 111:38, 111:41, 111:44, 111:47, 111:50, 111:53, 111:56, 111:59, 112:2, 112:5, 112:8, 112:11, 112:14, 112:17, 112:20, 112:23, 112:26, 112:29, 112:32, 112:35, 112:38, 112:41, 112:44, 112:47, 112:50, 112:53, 112:56, 112:59, 113:2, 113:5, 113:8, 113:11, 113:14, 113:17, 113:20, 113:23, 113:26, 113:29, 113:32, 1

76:21, 76:24, 77:3, 77:5, 77:7, 77:8, 77:10, 77:20, 78:3, 78:6, 78:9, 78:12, 78:15, 78:17, 78:22, 78:24, 79:4, 79:8, 79:17, 79:19, 79:22, 79:23, 79:25, 84:10, 84:11, 84:13, 85:24, 86:3, 86:4, 86:8, 86:10, 87:2, 87:3, 87:4, 87:6, 87:8, 87:10, 87:20, 87:22, 87:23, 88:2, 88:3, 88:4, 88:8, 88:9, 88:10, 88:21, 89:20, 90:6, 90:12, 90:15, 90:18, 90:20, 90:24, 90:25, 91:21, 92:3, 92:7, 92:12, 93:9, 93:20, 94:8, 95:12, 95:14, 95:17, 96:3, 96:12  
**MS** [119] - 5:18, 5:24, 6:5, 6:9, 6:12, 6:15, 6:20, 6:24, 10:6, 12:12, 12:14, 12:17, 12:19, 12:22, 12:24, 13:2, 13:6, 16:11, 16:14, 17:8, 21:16, 23:5, 23:11, 23:25, 24:12, 25:2, 25:11, 25:19, 26:6, 26:12, 26:17, 27:2, 27:7, 27:20, 28:8, 31:7, 31:18, 31:22, 32:5, 35:11, 35:22, 36:14, 37:3, 37:11, 41:24, 42:10, 42:15, 43:2, 43:11, 44:11, 44:16, 44:19, 44:22, 45:4, 45:22, 46:5, 46:10, 46:18, 46:25, 47:7, 47:9, 47:13, 47:18, 47:21, 48:24, 49:5, 49:9, 49:23, 51:20, 52:10, 52:20, 54:20, 55:13, 55:18, 55:22, 55:25, 58:2, 58:19, 65:13, 65:24, 66:4, 71:16, 71:21, 76:2, 76:16, 76:19, 76:22, 76:25, 77:15, 77:24, 78:5, 79:13, 84:14, 89:18, 90:4, 90:10, 90:16, 91:3, 91:20, 92:2, 92:5, 92:10, 92:14, 92:16, 92:23, 92:25, 93:11, 93:17,

93:21, 93:24, 94:15, 94:21, 94:23, 95:3, 95:8, 95:9, 95:16, 95:24, 96:7  
**multiple** [2] - 40:17, 67:11  
**must** [2] - 113:12, 116:8  
**name** [14] - 3:4, 6:7, 6:11, 10:6, 18:17, 25:21, 25:23, 43:20, 63:6, 73:10, 73:12, 77:6, 80:3, 88:21  
**natural** [1] - 45:15  
**natural-elements-feel** [1] - 45:15  
**nature** [4] - 61:3, 91:25, 98:19, 117:18  
**near** [3] - 11:10, 24:23, 28:11  
**nearby** [3] - 98:17, 99:9, 108:23  
**nearing** [1] - 73:18  
**nearly** [1] - 70:9  
**necessary** [9] - 26:24, 99:17, 100:7, 102:21, 105:8, 109:16, 112:18, 116:9, 120:2  
**need** [31] - 3:20, 6:17, 20:2, 23:14, 23:22, 24:19, 24:21, 24:23, 26:14, 32:22, 33:24, 36:10, 38:16, 43:13, 48:6, 50:7, 54:20, 55:14, 60:18, 63:18, 65:14, 65:21, 65:22, 67:9, 67:14, 73:14, 74:3, 74:17, 75:22, 80:25, 81:6  
**needed** [5] - 25:13, 29:15, 33:20, 120:9, 120:23  
**needs** [9] - 23:9, 29:17, 30:6, 54:2, 55:2, 55:17, 66:10, 67:18, 115:18  
**negative** [3] - 23:2, 104:23, 113:19  
**neighbor** [11] - 15:24, 16:5, 16:6, 38:23, 54:6, 54:7, 54:8, 59:14, 59:22, 61:16, 61:25  
**neighbor's** [1] - 16:17  
**neighborhood** [27] - 15:4, 38:16, 42:12,

46:6, 47:15, 49:7, 61:4, 61:7, 61:23, 61:25, 62:3, 71:3, 71:11, 75:18, 80:18, 83:4, 83:17, 83:20, 98:17, 101:24, 104:24, 105:3, 108:23, 110:24, 111:6, 113:20, 117:20  
**neighboring** [2] - 98:20, 111:10  
**neighbors** [10] - 14:15, 38:10, 38:19, 38:22, 65:6, 70:12, 71:4, 77:2, 77:18, 85:2  
**never** [1] - 21:23  
**new** [22] - 10:16, 11:21, 14:11, 14:13, 14:22, 16:2, 16:11, 35:4, 45:16, 45:17, 45:18, 48:4, 59:15, 60:6, 71:20, 89:6, 93:15, 102:3, 102:5, 102:11  
**NEW** [3] - 1:2, 97:2, 122:2  
**New** [11] - 1:6, 1:25, 7:22, 21:5, 37:17, 88:23, 97:6, 97:23, 109:15, 122:15, 122:25  
**newest** [1] - 2:13  
**newly** [1] - 109:13  
**newly-renovated** [1] - 109:13  
**next** [12] - 8:4, 8:8, 9:13, 9:18, 26:16, 34:22, 56:18, 61:15, 65:6, 68:3, 70:12, 94:14  
**next-door** [2] - 61:15, 70:12  
**nice** [2] - 64:23, 92:20  
**nicer** [1] - 71:2  
**nicer-looking** [1] - 71:2  
**night** [1] - 2:14  
**nighttime** [1] - 92:18  
**ninetieth** [1] - 73:18  
**Nixon** [1] - 18:18  
**nobody** [3] - 10:13, 11:8, 38:24  
**noise** [2] - 64:2, 98:23  
**nonalcoholic** [1] - 110:19

**none** [6] - 28:16, 39:18, 62:20, 68:17, 72:22, 96:17  
**noodles** [1] - 43:5  
**normal** [2] - 77:25, 112:6  
**normally** [1] - 7:10  
**north** [15] - 4:22, 5:4, 5:11, 14:9, 15:7, 15:8, 15:25, 88:18, 89:5, 102:14, 104:18, 111:9, 117:7, 117:17  
**North** [3] - 39:8, 88:23  
**Notary** [1] - 122:24  
**note** [6] - 3:12, 3:23, 4:2, 4:7, 30:14, 99:13  
**noted** [2] - 47:3, 83:25  
**notes** [1] - 86:14  
**noticeable** [1] - 108:25  
**notion** [2] - 81:3  
**November** [4] - 52:5, 64:23, 93:3, 101:11  
**nowhere** [1] - 21:20  
**number** [5] - 26:4, 27:25, 38:5, 60:21, 99:24  
**numbers** [1] - 47:6  
**nurse** [1] - 64:14  
**nursing** [2] - 63:17, 117:14  
**nutrition** [1] - 48:12  
**NY** [2] - 88:15, 117:4  
**nylon** [1] - 64:3  
**O'Donnell** [2] - 3:10, 7:20  
**O'DONNELL** [4] - 7:20, 9:2, 9:9, 9:22  
**oak** [1] - 81:17  
**Oak** [1] - 69:12  
**obnoxious** [2] - 111:12, 112:8  
**obstruct** [2] - 72:9, 72:13  
**obstructed** [1] - 69:23  
**obstruction** [1] - 24:22  
**obtained** [9] - 29:8, 100:8, 102:22, 105:9, 107:7, 109:17, 112:19, 113:25, 116:10  
**obtaining** [1] - 26:22  
**obviously** [3] - 26:22, 63:18, 69:14

**occupied** [4] - 23:21, 24:11, 106:22, 111:18  
**occupy** [2] - 39:25, 110:7  
**occur** [2] - 92:17, 112:5  
**occurs** [1] - 30:19  
**OCTOBER** [2] - 1:3, 97:3  
**October** [5] - 2:3, 57:20, 95:20, 97:4, 118:5  
**october** [1] - 1:5  
**odorous** [1] - 112:8  
**odors** [1] - 111:12  
**OF** [14] - 1:2, 97:2, 98:14, 101:10, 104:15, 106:13, 108:12, 110:14, 113:11, 115:12, 117:12, 119:12, 122:2, 122:3  
**offer** [1] - 48:16  
**offering** [1] - 41:18  
**offers** [1] - 115:20  
**office** [4] - 8:22, 23:23, 59:20, 106:15  
**often** [1] - 82:11  
**old** [3] - 16:2, 29:14, 79:18  
**ON** [1] - 97:2  
**once** [3] - 10:12, 11:7, 65:22  
**one** [37] - 8:4, 8:9, 10:24, 11:8, 14:17, 26:4, 29:21, 32:2, 32:14, 33:7, 38:23, 41:5, 44:7, 46:2, 48:12, 52:22, 55:11, 56:23, 60:21, 65:7, 73:25, 74:20, 80:21, 81:18, 83:13, 83:15, 85:10, 89:10, 90:17, 91:23, 91:25, 92:8, 95:4, 95:18, 101:25, 115:19, 118:5  
**one-year** [1] - 95:18  
**ones** [2] - 9:4, 65:6  
**online** [3] - 58:6, 58:11, 58:18  
**OPEN** [2] - 3:3, 98:11  
**open** [11] - 26:14, 26:18, 32:23, 46:22, 48:19, 49:9, 50:5, 50:23, 91:9, 93:11, 95:8  
**open-ended** [1] - 50:5

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**opening** [4] - 41:14, 48:25, 91:8, 93:14  
**opens** [1] - 53:19  
**operate** [1] - 40:22  
**operated** [2] - 56:23, 98:20  
**operation** [4] - 47:7, 51:13, 111:24, 111:25  
**operations** [2] - 42:16, 43:18  
**opportunity** [2] - 4:15, 59:11  
**opposed** [3] - 10:20, 14:12, 74:21  
**opposite** [4] - 36:19, 65:7, 70:11, 70:16  
**orchestra** [1] - 7:4  
**order** [9] - 2:2, 5:10, 40:3, 58:4, 58:12, 58:14, 58:18, 58:20, 110:9  
**ordering** [1] - 58:11  
**orient** [1] - 4:21  
**original** [6] - 8:10, 50:9, 50:16, 79:5, 86:16, 86:20  
**originally** [2] - 11:2, 11:3  
**outage** [1] - 120:16  
**outdoor** [5] - 24:9, 46:19, 50:25, 51:17, 55:14  
**outdoors** [2] - 57:18, 64:12  
**output** [1] - 78:23  
**outside** [13] - 18:13, 19:5, 23:9, 23:17, 31:17, 44:12, 44:15, 45:14, 57:22, 106:8, 106:17, 112:9, 112:16  
**oval** [1] - 113:16  
**overall** [4] - 19:19, 43:3, 101:23, 102:2  
**overgrowth** [1] - 70:12  
**overhang** [7] - 14:13, 14:23, 14:25, 17:18, 17:20, 17:24, 104:18  
**overhead** [1] - 108:16  
**own** [1] - 29:25  
**owned** [1] - 98:20  
**owner** [14] - 2:19, 18:10, 28:20, 39:21, 68:21, 73:2, 88:15, 98:3, 106:5, 108:4, 110:4, 113:4, 115:4, 117:4  
**owners** [8] - 9:25, 13:9, 29:8, 41:6, 62:24, 101:3, 104:3, 119:3  
**ownership** [1] - 80:6  
**p.m** [4] - 63:24, 111:25, 112:7, 116:7  
**P.M** [2] - 1:3, 97:3  
**packets** [1] - 45:11  
**pad** [6] - 24:15, 25:3, 25:15, 26:7, 27:11, 28:2  
**page** [1] - 26:4  
**pages** [1] - 122:6  
**paint** [4] - 10:10, 12:12, 12:19, 79:12  
**painted** [1] - 107:3  
**painting** [1] - 10:19  
**parallel** [1] - 85:2  
**park** [2] - 66:9, 106:15  
**Park** [5] - 6:13, 18:11, 18:23, 91:4, 106:6  
**parked** [3] - 63:3, 119:6, 119:20  
**parking** [2] - 20:13, 22:23, 28:11, 47:2, 47:3, 50:9, 50:16, 51:21, 51:22, 51:25, 52:2, 52:7, 52:18, 52:25, 61:14, 65:24, 66:5, 85:16, 99:25, 106:15  
**part** [18] - 6:5, 15:15, 25:11, 30:18, 32:15, 32:18, 33:13, 33:20, 35:24, 36:4, 36:6, 36:23, 45:10, 56:4, 62:2, 66:19, 92:21, 119:14  
**partial** [2] - 28:22, 108:6  
**partially** [2] - 102:13, 119:22  
**particular** [2] - 6:25, 109:8  
**particularly** [3] - 3:25, 11:10, 19:2  
**parties** [1] - 122:11  
**Partnership** [2] - 18:10, 106:5  
**party** [1] - 80:12  
**pass** [1] - 13:25  
**passageway** [1] - 32:24  
**passed** [1] - 8:18  
**patch** [1] - 79:11  
**path** [2] - 28:10  
**patients** [1] - 93:15  
**patio** [1] - 44:14  
**Paul** [4] - 8:21, 73:8, 77:10, 86:10  
**paying** [1] - 54:5  
**Peabody** [1] - 18:18  
**peacefully** [1] - 60:13  
**peak** [4] - 56:8, 56:9, 56:12  
**peeve** [1] - 71:22  
**people** [30] - 10:22, 11:12, 12:7, 24:22, 25:3, 37:14, 39:2, 49:20, 52:5, 52:25, 53:25, 56:15, 57:10, 57:11, 57:12, 57:14, 57:18, 57:21, 58:12, 58:18, 58:20, 64:2, 69:9, 69:15, 75:23, 81:6, 84:23, 85:5, 85:21, 101:21  
**per** [6] - 52:2, 102:19, 109:15, 110:15, 110:18, 121:6  
**percent** [4] - 12:5, 43:9, 99:3  
**percentage** [1] - 43:3  
**performance** [2] - 6:22, 99:20  
**perhaps** [1] - 3:16  
**perimeters** [4] - 48:17, 49:12, 51:16  
**period** [7] - 63:3, 64:7, 66:16, 88:19, 117:8, 117:13, 119:7  
**periodically** [2] - 24:20, 24:24  
**permanent** [2] - 64:18  
**permeable** [1] - 46:13  
**permissible** [1] - 21:22  
**Permit** [4] - 62:25, 88:17, 117:6, 119:5  
**permit** [7] - 66:20, 89:3, 117:16, 117:25, 118:4, 118:7, 119:25  
**permits** [4] - 105:8, 107:7, 109:16, 112:19  
**permitted** [3] - 19:9, 112:10, 112:14  
**permitting** [1] - 73:23  
**perpendicular** [3] - 74:21, 74:24, 81:14  
**person** [1] - 87:13  
**personal** [1] - 122:7  
**personally** [1] - 84:20  
**perspective** [1] - 73:15  
**pet** [1] - 71:22  
**phone** [1] - 58:7  
**phoney** [1] - 82:17  
**phoney-looking** [1] - 82:17  
**photographer's** [1] - 8:11  
**photographs** [2] - 14:8, 20:17  
**photos** [2] - 13:21, 74:9  
**physical** [1] - 23:16  
**physically** [2] - 33:25, 63:16  
**pick** [4] - 47:13, 58:7, 58:23, 112:5  
**pictures** [4] - 15:10, 15:19, 17:11, 70:2  
**piece** [3] - 6:16, 20:24, 26:9  
**pieces** [1] - 24:7  
**pipes** [2] - 34:18, 60:2  
**pit** [1] - 55:23  
**Pittsford** [2] - 2:7, 91:5  
**place** [7] - 10:9, 29:18, 38:5, 57:14, 59:23, 63:19, 74:20  
**placed** [3] - 30:25, 113:13, 115:18  
**placement** [1] - 102:6  
**places** [1] - 54:2  
**placing** [1] - 85:2  
**plan** [38] - 4:6, 4:10, 4:11, 4:22, 6:15, 15:7, 27:16, 27:23, 27:25, 32:5, 34:6, 44:9, 44:13, 50:8, 50:17, 53:12, 53:13, 53:16, 53:17, 53:18, 53:19, 53:23, 54:11, 54:12, 54:14, 54:15, 54:17, 54:23, 92:17, 94:4, 94:17, 99:6, 99:19, 105:5, 109:9, 114:3, 121:6  
**planned** [1] - 115:19  
**planning** [1] - 9:7, 9:14, 21:17, 27:21, 60:25, 69:19, 71:19, 100:8, 102:22, 113:24, 116:10  
**plannings** [2] - 3:24, 5:13  
**plans** [26] - 2:25, 4:7, 10:5, 13:14, 18:15, 26:3, 28:25, 40:4, 44:11, 60:4, 61:8, 63:5, 68:25, 73:7, 88:20, 98:9, 101:7, 104:8, 106:10, 106:24, 108:9, 110:11, 113:8, 115:9, 117:9, 119:8  
**plant** [1] - 27:19  
**planted** [2] - 5:21, 107:5  
**PLANTHOLT** [7] - 88:21, 89:20, 90:6, 90:12, 90:18, 90:24, 94:8  
**Plantholt** [1] - 88:22  
**planting** [2] - 20:10, 27:9  
**plantings** [1] - 4:25  
**Plater** [1] - 38:12  
**plaza** [1] - 61:15  
**plenty** [1] - 27:13  
**plumbing** [2] - 34:16, 54:24  
**plumbing-wise** [1] - 34:16  
**plus** [2] - 15:15, 52:13  
**podium** [1] - 25:10  
**point** [10] - 23:19, 35:13, 48:23, 53:11, 59:3, 68:13, 86:3, 87:3, 87:10, 89:25  
**pole** [2] - 69:23, 69:25  
**Polverino** [3] - 28:20, 29:3, 108:4  
**POLVERINO** [13] - 29:2, 29:6, 31:9, 31:21, 31:25, 32:8, 35:14, 35:18, 36:25, 38:11, 38:21, 39:4, 39:13  
**poor** [1] - 15:6  
**population** [2] - 117:23, 120:11  
**portion** [3] - 30:14, 31:14, 110:23  
**position** [1] - 11:22  
**positive** [1] - 50:3  
**possible** [1] - 34:18  
**possibly** [3] - 25:13,

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

37:22, 72:8  
**Post** [1] - 2:7  
**post** [3] - 59:20, 81:13, 85:12  
**potential** [3] - 26:25, 51:21, 71:14  
**potentially** [1] - 71:14  
**power** [2] - 75:4, 120:16  
**powered** [1] - 120:15  
**pre** [1] - 47:10  
**pre-seating** [1] - 47:10  
**predate** [1] - 76:19  
**preliminary** [1] - 8:18  
**preparation** [2] - 41:25, 42:18  
**prepare** [1] - 42:5  
**prepared** [4] - 8:7, 9:3, 9:6, 9:13  
**presence** [1] - 120:17  
**PRESENT** [2] - 1:8, 97:8  
**present** [2] - 2:11, 8:5  
**presented** [4] - 4:14, 97:17, 116:5, 118:6  
**president** [2] - 43:17, 88:24  
**pretty** [9] - 22:19, 42:5, 44:3, 44:6, 45:9, 45:16, 70:4, 70:7, 70:18  
**prevent** [1] - 71:14  
**previous** [2] - 29:8, 51:19  
**previously** [5] - 29:8, 40:3, 110:10, 111:18, 115:15  
**previously-approved** [1] - 115:15  
**primarily** [1] - 111:8  
**primary** [2] - 23:20, 24:4  
**print** [2] - 79:18, 93:2  
**problem** [5] - 11:9, 15:11, 43:12, 71:22, 81:25  
**problems** [1] - 20:6  
**procedurally** [1] - 88:6  
**proceeding** [1] - 122:9  
**PROCEEDINGS** [2] - 1:2, 97:2  
**process** [3] - 54:10, 73:17, 89:9  
**produce** [3] - 98:16, 108:21, 116:2  
**produced** [1] - 111:13  
**professional** [1] - 11:5  
**Professional** [2] - 18:10, 106:4  
**prohibitively** [1] - 22:7  
**project** [9] - 3:11, 7:25, 77:22, 78:23, 91:12, 119:15, 120:6, 120:23, 121:3  
**projecting** [1] - 78:19  
**propane** [1] - 120:16  
**proper** [2] - 112:12, 120:20  
**properly** [1] - 2:5  
**properties** [9] - 3:21, 98:17, 98:24, 108:24, 110:25, 111:4, 111:7, 111:9, 120:14  
**Properties** [1] - 40:7  
**property** [42] - 2:20, 3:23, 3:25, 5:4, 10:2, 13:9, 14:10, 18:10, 28:20, 39:22, 62:24, 68:21, 69:4, 69:13, 69:14, 69:22, 70:10, 70:15, 70:18, 71:5, 71:7, 71:15, 72:6, 72:7, 73:3, 88:15, 98:3, 98:18, 98:20, 99:12, 101:3, 104:4, 105:2, 106:5, 108:4, 110:4, 110:17, 111:2, 113:4, 115:4, 117:4, 119:4  
**proposal** [2] - 69:18, 79:8  
**proposed** [9] - 25:8, 33:12, 59:15, 104:16, 104:19, 109:8, 111:11, 111:19, 115:18  
**proposing** [7] - 18:21, 19:23, 20:7, 22:10, 50:8, 82:4, 99:2  
**protected** [2] - 35:15, 63:20  
**protein** [2] - 43:7, 43:8  
**proud** [1] - 91:17  
**prove** [1] - 20:2  
**provide** [7] - 64:3, 99:7, 101:19, 101:20, 102:15, 119:17, 120:21  
**provided** [5] - 5:16, 51:10, 51:12, 60:4, 112:15  
**provides** [1] - 34:14  
**Public** [1] - 122:24  
**PUBLIC** [2] - 3:2, 98:10  
**public** [12] - 21:6, 21:9, 26:21, 28:16, 39:18, 62:20, 68:17, 72:22, 73:20, 88:11, 90:7, 96:17  
**pull** [1] - 15:18  
**punished** [1] - 54:4  
**purpose** [2] - 53:21, 89:6  
**purposes** [1] - 6:4  
**pursuant** [5] - 63:2, 88:17, 97:18, 117:6, 119:5  
**put** [26] - 5:19, 10:16, 11:2, 13:20, 19:23, 20:7, 22:18, 22:24, 23:6, 23:17, 34:10, 34:12, 48:16, 49:11, 49:14, 50:25, 51:16, 64:7, 76:13, 81:20, 81:24, 82:15, 83:15, 89:4, 91:2, 93:7  
**putting** [3] - 34:16, 63:14, 80:13  
**quality** [1] - 120:21  
**quantities** [1] - 112:9  
**quarters** [6] - 28:24, 29:16, 30:9, 30:10, 36:11, 108:8  
**questions** [21] - 4:17, 9:20, 13:4, 18:3, 21:11, 21:15, 27:4, 32:17, 39:11, 56:6, 58:25, 65:12, 68:13, 72:15, 79:3, 79:20, 84:11, 95:13, 96:13  
**questions..** [1] - 65:11  
**quick** [2] - 38:19, 56:7  
**quickly** [5] - 39:6, 57:12, 86:9, 87:8, 94:25  
**quiet** [1] - 119:17  
**quietly** [1] - 60:13  
**quite** [7] - 25:16, 46:12, 76:21, 81:17, 82:2, 83:12, 86:15  
**rates** [1] - 41:20  
**racks** [2] - 46:19, 46:22  
**RADLER** [17] - 13:15, 13:18, 13:23, 14:5, 14:22, 15:23, 16:6, 16:10, 16:13, 16:16, 16:20, 16:24, 17:4, 17:7, 17:10, 17:20, 18:5  
**Radler** [5] - 13:8, 13:16, 13:18, 13:19, 104:3  
**rails** [1] - 49:16  
**rake** [1] - 82:9  
**ramp** [1] - 102:14  
**rate** [1] - 31:3  
**rather** [6] - 30:24, 36:18, 37:11, 82:14, 95:18, 96:5  
**re** [1] - 73:20  
**re-branding** [1] - 73:20  
**reach** [1] - 22:14  
**read** [1] - 2:17  
**ready** [1] - 2:17  
**real** [2] - 38:18, 61:11  
**realize** [1] - 82:5  
**realizing** [1] - 69:22  
**really** [44] - 17:15, 20:12, 20:14, 21:20, 21:23, 22:10, 22:15, 22:17, 23:24, 28:9, 29:16, 30:2, 30:9, 31:4, 33:17, 41:17, 42:5, 42:17, 42:24, 46:5, 48:5, 48:22, 49:19, 50:5, 50:15, 56:10, 56:11, 56:14, 57:13, 57:24, 60:7, 61:9, 67:14, 68:11, 72:2, 78:19, 78:20, 82:5, 85:5, 90:4, 91:10, 91:17  
**rear** [3] - 28:23, 106:14, 108:7  
**reason** [8] - 23:20, 29:12, 63:8, 74:3, 75:24, 81:19, 81:21, 120:8  
**reasonably** [1] - 99:16  
**reasons** [1] - 21:22  
**received** [3] - 39:7, 101:11, 101:14  
**recently** [2] - 29:14, 92:17  
**receptacles** [1] - 112:7  
**record** [11] - 2:10, 2:12, 4:20, 6:10, 7:16, 7:21, 25:22, 39:7, 40:21, 41:4, 122:8  
**rectangular** [1] - 82:18  
**recyclables** [1] - 43:23  
**red** [1] - 8:13  
**reduce** [4] - 68:10, 98:23, 99:2, 115:16  
**reduction** [1] - 55:10  
**refer** [1] - 27:24  
**references** [1] - 28:2  
**referencing** [1] - 26:10  
**referring** [1] - 87:11  
**reflect** [3] - 4:6, 5:15, 74:14  
**reflected** [2] - 4:11, 6:19  
**reflects** [1] - 99:20  
**refrigerator** [5] - 20:23, 24:2, 24:5, 26:11, 33:6  
**regained** [1] - 30:7  
**regard** [1] - 52:9  
**regarding** [8] - 28:15, 39:16, 59:8, 62:18, 68:16, 72:20, 86:2, 96:16  
**regards** [3] - 7:19, 33:10, 38:10  
**Regional** [1] - 10:7  
**regional** [1] - 69:4  
**regular** [1] - 12:8  
**regulations** [1] - 110:15  
**rehearse** [1] - 7:8  
**related** [2] - 46:10, 113:16  
**relates** [1] - 66:23  
**relative** [1] - 122:11  
**relatively** [1] - 11:21  
**relief** [2] - 99:17, 120:2  
**relieve** [1] - 22:16  
**relocation** [2] - 10:4, 101:5  
**remains** [1] - 102:6  
**REMAINS** [2] - 3:2, 98:10  
**remember** [2] - 6:2, 6:21

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

**removal** [3] - 73:5, 98:22, 115:6  
**remove** [4] - 51:2, 79:10, 120:5, 121:2  
**removed** [3] - 76:4, 116:8  
**removing** [1] - 115:15  
**rendering** [5] - 3:13, 5:16, 82:20, 86:14, 87:16  
**renderings** [3] - 4:11, 9:12, 45:10  
**renovated** [1] - 109:13  
**renovation** [8] - 63:12, 63:18, 64:19, 66:14, 89:7, 89:24, 90:14, 117:14  
**renovations** [2] - 40:13, 63:16  
**renovator** [1] - 64:21  
**repainting** [1] - 101:22  
**repeat** [1] - 95:25  
**replace** [2] - 69:15, 74:2  
**replaced** [1] - 108:17  
**replacement** [1] - 40:8  
**replacing** [4] - 40:2, 73:6, 110:8, 115:7  
**replenish** [1] - 75:22  
**report** [1] - 30:5  
**reported** [1] - 122:5  
**Reported** [2] - 1:23, 97:22  
**Reporter** [1] - 122:24  
**Reporting** [2] - 1:24, 97:22  
**represent** [2] - 18:18, 63:7  
**represented** [1] - 86:5  
**representing** [4] - 3:6, 10:7, 25:24, 63:9  
**represents** [1] - 8:12  
**repurpose** [1] - 54:25  
**request** [9] - 10:10, 39:10, 65:3, 69:6, 92:22, 109:4, 113:15, 120:10, 120:20  
**requested** [8] - 9:9, 14:20, 14:21, 98:15, 98:25, 102:3, 111:5, 119:25  
**requesting** [8] - 10:3, 14:6, 14:16, 15:3, 70:20, 73:4, 101:5, 115:6  
**requests** [1] - 117:15  
**require** [2] - 19:3, 22:4  
**required** [16] - 2:23, 2:24, 13:13, 14:13, 15:14, 19:6, 30:6, 50:9, 66:17, 67:3, 97:18, 98:7, 98:8, 99:3, 104:7, 104:14  
**requirement** [2] - 51:18, 71:9  
**requirements** [3] - 33:10, 53:2, 99:21  
**requires** [3] - 63:17, 99:24, 120:6  
**researching** [1] - 86:19  
**residence** [1] - 62:11  
**resident** [1] - 59:18  
**residential** [12] - 12:3, 47:15, 62:8, 74:16, 80:18, 81:4, 83:6, 98:18, 98:24, 99:12, 111:2, 111:9  
**residents** [1] - 39:7  
**resources** [1] - 22:18  
**responsibility** [1] - 61:20  
**responsible** [1] - 61:22  
**rest** [2] - 64:15, 119:18  
**restaurant** [20] - 39:25, 40:2, 40:3, 40:22, 41:3, 41:6, 46:20, 50:10, 50:23, 59:16, 60:18, 61:13, 110:7, 110:8, 110:9, 111:10, 111:16, 111:24, 112:3, 112:11  
**restaurants** [2] - 111:8, 111:18  
**restrained** [1] - 74:23  
**restrictions** [1] - 49:15  
**restricts** [1] - 99:25  
**resubmission** [2] - 3:12, 3:24  
**result** [8] - 104:24, 108:21, 108:24, 113:18, 113:20, 116:2, 118:8, 120:12  
**retail** [1] - 111:9  
**return** [1] - 78:13  
**reusing** [1] - 71:19  
**review** [23] - 4:15, 7:16, 7:17, 7:18, 7:23, 8:15, 9:8, 44:23, 46:11, 46:13, 47:2, 60:23, 61:19, 61:21, 69:19, 95:10, 97:18, 100:7, 102:21, 109:17, 112:18, 113:24, 116:9  
**revised** [1] - 47:23  
**revocable** [3] - 89:3, 117:16, 117:25  
**Revocable** [4] - 62:25, 88:16, 117:5, 119:5  
**RG&E** [4] - 3:17, 69:20, 98:21, 113:12  
**Rick** [6] - 2:5, 8:21, 14:18, 55:13, 59:2, 76:16  
**RICK** [2] - 1:14, 97:14  
**Rick's** [1] - 33:16  
**riding** [1] - 52:6  
**right-hand** [1] - 26:5  
**rights** [1] - 51:18  
**road** [8] - 72:8, 76:3, 78:25, 81:14, 81:21, 113:13, 115:14, 119:23  
**Road** [19] - 3:14, 4:3, 5:2, 5:25, 7:21, 10:2, 10:23, 13:9, 13:16, 13:19, 88:16, 91:4, 98:23, 99:11, 99:13, 101:4, 102:15, 104:4, 117:5  
**Robert** [5] - 68:21, 69:4, 80:3, 84:17, 113:3  
**ROCHESTER** [2] - 1:2, 97:2  
**Rochester** [10] - 1:6, 7:22, 18:9, 41:13, 73:9, 88:15, 88:24, 97:6, 106:3, 117:4  
**rock** [1] - 94:6  
**roll** [12] - 2:9, 67:2, 100:13, 103:3, 105:16, 107:12, 109:22, 112:24, 114:9, 116:16, 118:15, 121:12  
**roll-off** [1] - 67:2  
**roof** [6] - 19:13, 19:19, 19:22, 20:4, 25:18, 45:23  
**room** [34] - 6:17, 7:4, 7:9, 23:5, 27:10, 27:13, 27:18, 29:20, 37:21, 37:22, 47:22, 47:25, 48:3, 48:15, 48:17, 49:13, 49:16, 49:24, 50:4, 50:20, 50:22, 51:2, 51:9, 51:17, 52:11, 53:3, 53:17, 53:18, 53:19, 53:24, 53:25, 57:6, 108:14, 112:2  
**rooms** [2] - 23:13, 63:20  
**rough** [1] - 5:22  
**round** [1] - 82:13  
**Route** [1] - 94:24  
**route** [1] - 102:16  
**ruin** [1] - 93:5  
**rule** [2] - 5:22, 84:6  
**running** [1] - 34:17  
**Sabra** [2] - 40:10, 50:14  
**safe** [2] - 119:17, 120:24  
**safety** [4] - 85:15, 109:2, 117:22, 120:18  
**sake** [1] - 37:7  
**salad** [1] - 42:24  
**salads** [3] - 43:5, 43:7, 110:19  
**sale** [1] - 110:19  
**saving** [1] - 37:25  
**saw** [2] - 8:19, 9:2  
**scale** [3] - 46:4, 57:2, 111:17  
**schedule** [1] - 52:15  
**scheduled** [1] - 120:3  
**School** [7] - 73:2, 80:10, 81:5, 85:8, 86:17, 115:4, 115:13  
**school** [21] - 63:24, 64:14, 73:12, 73:14, 73:18, 73:21, 73:23, 74:6, 74:7, 74:15, 74:17, 75:8, 75:16, 75:20, 75:24, 76:10, 85:6, 85:18, 99:22, 115:23, 119:18  
**School's** [1] - 75:5  
**schoolhouse** [1] - 8:13  
**SCHWARTZ** [35] - 1:10, 5:18, 12:12, 21:16, 27:7, 27:20, 28:8, 41:24, 42:10, 43:11, 44:16, 44:19, 45:4, 45:22, 46:5, 49:5, 49:9, 54:20, 55:13, 55:18, 55:22, 55:25, 71:21, 76:22, 76:25, 77:15, 77:24, 78:5, 89:18, 90:4, 90:16, 91:20, 92:5, 92:10, 97:11  
**Schwartz** [15] - 100:12, 102:23, 103:2, 105:15, 106:11, 107:11, 109:18, 109:21, 112:23, 114:8, 115:10, 116:14, 118:11, 118:14, 121:11  
**scoop** [1] - 43:8  
**scratch** [1] - 42:8  
**screen** [4] - 3:22, 20:12, 20:18, 22:21  
**screening** [3] - 20:7, 27:18, 99:7  
**seasonally** [1] - 44:15  
**seat** [1] - 53:6  
**seating** [8] - 44:11, 44:15, 46:20, 47:10, 49:24, 51:23, 56:23, 112:16  
**seats** [12] - 50:8, 50:18, 51:2, 51:8, 51:11, 52:2, 53:2, 57:8, 57:9, 57:16, 57:19  
**second** [8] - 14:17, 34:8, 63:10, 68:2, 73:5, 74:12, 93:10, 115:7  
**Seconded** [10] - 100:9, 102:23, 105:12, 107:8, 109:18, 112:20, 114:5, 116:11, 118:11, 121:8  
**Secretary** [2] - 1:15, 97:14  
**section** [2] - 30:19, 113:22  
**Section** [10] - 2:21, 18:12, 63:2, 68:22, 88:17, 98:5, 106:6, 113:5, 117:6, 119:5  
**Sections** [2] - 13:10, 104:5  
**see** [29] - 10:13, 11:8, 11:13, 11:17, 14:3, 14:8, 14:24,

## EDITH FORBES COURT REPORTING SERVICES

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: Eforbes@rochester.rr.com

15:11, 15:19, 20:16, 21:19, 24:6, 26:8, 26:16, 30:17, 30:20, 46:15, 53:13, 60:9, 70:7, 70:17, 74:10, 83:24, 84:23, 85:7, 91:20, 92:8, 93:4, 94:19  
**seeks** [1] - 108:13  
**seem** [1] - 48:9  
**self** [1] - 111:14  
**self-created** [1] - 111:14  
**selfish** [1] - 52:14  
**sell** [3] - 60:18, 62:10, 62:11  
**semicircle** [1] - 107:5  
**semicircular** [1] - 20:10  
**send** [1] - 78:24  
**sense** [2] - 78:19, 81:10  
**sensitive** [1] - 64:4  
**separate** [7] - 34:21, 36:2, 36:10, 36:17, 80:6, 80:7  
**separated** [1] - 33:5  
**September** [3] - 2:7, 93:12, 120:3  
**SEQRA** [1] - 97:19  
**series** [3] - 82:8, 82:12, 90:22  
**serve** [3] - 2:15, 41:10  
**service** [1] - 112:3  
**services** [3] - 88:25, 98:24, 112:15  
**session** [1] - 2:3  
**set** [5] - 9:18, 31:10, 42:19, 89:22, 110:25  
**setback** [11] - 2:23, 2:24, 17:17, 98:7, 98:8, 99:3, 99:4, 99:6, 99:11, 99:12, 99:14  
**setbacks** [2] - 28:24, 108:8  
**seven** [5] - 20:9, 22:24, 28:3, 47:18, 107:5  
**sf** [4] - 68:24, 113:6, 113:7  
**shading** [1] - 17:3  
**shadows** [1] - 66:7  
**Shafir** [5] - 62:23, 62:24, 63:7, 119:3  
**SHAFRIR** [7] - 63:6, 65:17, 66:3, 66:6, 66:19, 67:4, 67:21  
**shaft** [1] - 64:23  
**Shai** [3] - 62:23, 63:7, 119:3  
**shall** [16] - 100:8, 102:22, 105:8, 107:7, 109:9, 109:12, 109:14, 109:17, 112:10, 112:14, 112:17, 112:19, 113:25, 116:10, 118:4, 121:2  
**shame** [2] - 36:11, 82:5  
**shape** [4] - 15:6, 28:7, 59:24, 99:6  
**shared** [2] - 48:8, 109:11  
**sharing** [1] - 3:16  
**Sharon** [2] - 62:23, 119:3  
**sharp** [1] - 15:18  
**sheet** [2] - 27:24, 27:25  
**SHERWOOD** [4] - 1:23, 97:22, 122:4, 122:23  
**shield** [1] - 70:14  
**shielding** [1] - 71:25  
**shift** [1] - 104:21  
**short** [3] - 34:18, 40:3, 110:9  
**shorter** [1] - 19:24  
**shorthand** [1] - 122:5  
**shot** [1] - 15:12  
**shoulder** [1] - 11:16  
**show** [3] - 2:10, 74:5, 89:14  
**showing** [1] - 50:17  
**shown** [3] - 20:17, 26:16, 109:9  
**shows** [1] - 27:25  
**side** [26] - 2:24, 4:8, 4:23, 5:2, 5:12, 5:14, 13:12, 15:25, 16:5, 19:5, 20:8, 28:23, 29:21, 32:3, 46:12, 46:17, 61:10, 84:16, 98:8, 99:4, 99:12, 102:8, 104:7, 104:13, 104:18, 108:7  
**sides** [4] - 9:10, 26:13, 38:22, 74:25  
**siding** [2] - 16:13, 16:18  
**sight** [2] - 11:4, 102:12  
**Sign** [2] - 68:22, 113:5  
**sign** [109] - 10:3, 10:4, 10:25, 11:2, 11:5, 11:8, 11:15, 12:13, 68:23, 69:8, 69:11, 69:15, 69:20, 69:21, 70:4, 70:7, 70:21, 71:16, 73:4, 73:5, 73:6, 73:15, 74:2, 74:12, 74:20, 74:24, 75:5, 75:7, 75:10, 75:12, 76:3, 76:8, 76:9, 76:13, 76:14, 77:13, 77:14, 77:21, 77:22, 78:4, 78:13, 78:20, 79:6, 80:9, 80:13, 80:21, 80:23, 81:2, 81:6, 81:12, 81:13, 81:24, 81:25, 82:16, 82:23, 83:3, 83:12, 83:19, 84:18, 84:19, 84:20, 84:21, 84:24, 85:10, 86:18, 87:25, 89:17, 90:5, 91:13, 92:15, 92:24, 93:5, 93:8, 93:10, 94:7, 94:8, 94:9, 94:13, 94:19, 94:22, 95:5, 95:12, 96:4, 96:6, 101:5, 101:6, 101:18, 102:9, 102:11, 102:12, 102:14, 102:18, 113:6, 113:12, 113:16, 113:20, 114:2, 115:6, 115:7, 115:8, 115:13, 115:16, 115:18, 115:22, 116:4, 116:6, 116:8  
**signage** [11] - 10:17, 11:13, 69:7, 70:17, 70:19, 71:2, 71:6, 71:12, 71:20, 101:12, 115:17  
**significant** [6] - 14:7, 60:20, 63:11, 63:15, 68:5, 99:24  
**significantly** [1] - 111:17  
**signs** [29] - 10:12, 10:19, 10:21, 12:24, 13:2, 71:8, 71:22, 71:24, 73:23, 73:25, 74:4, 74:5, 74:7, 75:2, 75:16, 81:11, 81:21, 83:7, 83:10, 86:11, 91:18, 95:14, 96:8, 101:17, 101:22, 101:25, 113:21  
**Signsystems** [4] - 73:2, 73:9, 77:11, 115:3  
**similar** [6] - 19:25, 67:6, 71:4, 89:10, 110:20, 113:21  
**similarly** [2] - 105:2, 111:8  
**simple** [2] - 35:12, 81:8  
**simply** [2] - 35:16, 99:22  
**single** [2] - 14:12, 41:9  
**single-car** [1] - 14:12  
**single-line** [1] - 41:9  
**sit** [5] - 7:10, 7:12, 27:7, 57:18  
**site** [5] - 4:5, 4:11, 27:16, 27:25, 101:16  
**sites** [2] - 22:12, 22:16  
**sits** [3] - 19:17, 20:13, 25:20  
**sitting** [1] - 67:24  
**situation** [3] - 12:11, 30:9, 65:8  
**size** [24] - 5:18, 6:24, 7:11, 24:2, 24:5, 26:11, 27:20, 60:5, 60:19, 61:12, 67:4, 67:7, 68:24, 76:5, 81:15, 90:19, 99:5, 99:8, 99:21, 105:6, 113:7, 113:18, 113:21, 114:4  
**sized** [1] - 29:20  
**slab** [4] - 34:25, 35:3, 35:5, 35:10  
**sleepers** [1] - 35:3  
**sliding** [4] - 31:23, 32:2, 37:13, 37:14  
**slim** [1] - 34:13  
**slippers** [1] - 37:5  
**slow** [2] - 57:15, 64:20  
**small** [8] - 18:22, 18:25, 20:25, 22:11, 46:6, 80:22, 93:16, 94:25  
**small-town** [1] - 46:6  
**smaller** [4] - 20:23, 24:5, 24:16, 45:22  
**smallest** [1] - 25:12  
**so..** [1] - 5:8  
**solar** [1] - 75:4  
**sold** [1] - 33:3  
**solution** [3] - 64:7, 64:12, 64:19  
**someone** [1] - 24:23  
**sometime** [1] - 41:15  
**sometimes** [1] - 10:17  
**somewhat** [3] - 52:14, 52:19, 71:4  
**son** [6] - 63:9, 63:16, 63:23, 66:9, 119:16, 120:22  
**soon** [2] - 120:5, 121:3  
**sooner** [1] - 121:4  
**sorry** [10] - 6:9, 8:6, 13:17, 43:19, 51:20, 64:18, 65:5, 77:8, 95:24, 96:2  
**sort** [11] - 8:12, 19:24, 19:25, 21:6, 38:3, 41:18, 48:2, 49:13, 50:5, 77:25, 90:8  
**sought** [1] - 99:15  
**sound** [2] - 64:4  
**sounds** [1] - 59:4  
**soups** [1] - 41:11  
**source** [3] - 77:4, 77:12, 77:13  
**south** [7] - 3:14, 4:3, 4:8, 5:2, 5:13, 74:11, 99:11  
**South** [14] - 2:20, 5:5, 8:6, 8:7, 8:16, 9:5, 10:2, 88:16, 98:4, 98:19, 99:5, 99:10, 101:4, 117:5  
**space** [35] - 7:3, 23:16, 23:23, 24:10, 24:19, 24:21, 24:25, 26:9, 26:15, 26:19, 26:24, 27:14, 27:17, 29:12, 30:11, 31:8, 31:14, 31:19, 32:6, 32:23, 33:21, 33:22, 34:2, 36:16, 36:23, 36:25, 44:8, 48:8, 52:3, 52:7, 54:6, 54:16, 109:9, 109:13, 109:15  
**spaces** [2] - 47:3, 99:25  
**special** [1] - 85:19  
**specialist** [1] - 67:9  
**specialty** [1] - 120:7  
**specialty-designed** [1] - 120:7

## EDITH FORBES COURT REPORTING SERVICES

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**specific** [2] - 61:25, 105:6  
**specifically** [1] - 60:6  
**specifics** [1] - 34:6  
**specified** [1] - 114:2  
**spend** [3] - 33:19, 34:3, 57:12  
**spent** [2] - 58:17, 86:19  
**Split** [1] - 34:13  
**spot** [1] - 30:12  
**square** [1] - 70:21  
**Stacy** [1] - 10:7  
**staff** [1] - 80:2  
**stage** [5] - 6:24, 7:4, 7:11, 60:15, 99:22  
**stair** [1] - 89:5  
**stairs** [1] - 29:22  
**stand** [1] - 19:17  
**standard** [4] - 21:7, 22:19, 42:19, 45:19  
**standards** [2] - 20:2, 21:3  
**standing** [3] - 68:23, 113:6, 115:8  
**stands** [3] - 19:22, 62:10, 75:20  
**start** [3] - 15:16, 89:24, 95:22  
**started** [4] - 10:12, 59:25, 81:20, 91:14  
**State** [4] - 21:5, 37:17, 109:15, 122:15  
**STATE** [1] - 122:2  
**state** [2] - 25:21, 77:5  
**status** [1] - 67:16  
**stay** [5] - 15:8, 17:21, 30:3, 49:16, 58:22  
**stays** [1] - 17:13  
**steak** [4] - 42:3, 42:4, 42:25, 43:10  
**steakhouse** [1] - 42:24  
**step** [2] - 49:5, 54:9  
**Stephanie** [2] - 72:25, 115:3  
**sticks** [1] - 82:10  
**still** [10] - 11:21, 12:15, 12:17, 36:21, 63:24, 66:4, 77:16, 83:8, 102:7, 117:14  
**stolen** [1] - 85:10  
**stone** [11] - 45:21, 82:8, 82:13, 82:15, 82:19, 86:16, 86:20, 87:11, 87:17, 87:19, 88:2  
**stones** [1] - 86:22  
**storage** [2] - 44:8, 64:8  
**store** [5] - 41:8, 41:18, 42:7, 53:19, 57:4  
**stores** [1] - 41:13  
**stories** [1] - 76:8  
**storm** [1] - 94:6  
**story** [1] - 80:7  
**stove** [1] - 33:6  
**straight** [1] - 15:12  
**Street** [9] - 8:6, 69:24, 70:8, 72:11, 73:3, 74:11, 80:4, 84:15, 115:5  
**street** [24] - 15:13, 19:2, 30:16, 30:20, 31:3, 38:23, 38:24, 65:8, 71:6, 73:16, 74:2, 74:8, 74:10, 74:17, 74:21, 74:22, 74:24, 77:19, 80:21, 82:11, 84:16, 85:2, 108:25, 113:17  
**streetlight** [1] - 69:23  
**stretch** [1] - 99:5  
**stretching** [1] - 57:9  
**strictly** [1] - 112:11  
**strong** [1] - 94:3  
**structure** [7] - 14:22, 15:8, 19:14, 22:18, 66:21, 104:17, 109:6  
**structures** [1] - 118:9  
**studio** [1] - 8:11  
**study** [1] - 11:5  
**stuff** [2] - 8:25, 58:23  
**style** [4] - 7:19, 73:21, 77:21, 77:23  
**styled** [1] - 122:5  
**sub** [1] - 35:3  
**submission** [1] - 8:24  
**submit** [2] - 15:24, 16:3  
**submitted** [9] - 69:18, 70:2, 99:19, 102:19, 105:6, 109:9, 111:22, 114:3, 121:6  
**substantial** [6] - 98:25, 108:23, 110:23, 113:15, 117:19, 120:13  
**success** [1] - 49:19  
**successful** [1] - 49:22  
**suggest** [1] - 96:9  
**supervision** [1] - 122:8  
**supplemental** [1] - 112:2  
**support** [8] - 15:21, 18:13, 38:13, 39:9, 68:2, 81:3, 106:7, 106:25  
**supported** [1] - 59:22  
**supporting** [1] - 15:25  
**supportive** [1] - 65:9  
**supposed** [2] - 64:21, 84:3  
**surrounded** [1] - 29:19  
**surrounding** [6] - 15:5, 101:20, 102:3, 107:6, 111:7, 120:14  
**survey** [1] - 47:2  
**suspect** [1] - 52:13  
**sustainability** [1] - 75:6  
**swing** [1] - 26:14  
**swinging** [1] - 26:18  
**SWR** [2] - 9:25, 101:3  
**sympathetic** [1] - 86:24  
**Syracuse** [1] - 57:19  
**system** [4] - 34:13, 55:5, 77:21, 112:13  
**table** [1] - 50:2  
**tabled** [1] - 8:16  
**TABLED** [2] - 2:25, 98:9  
**takeout** [4] - 58:2, 58:8, 58:10, 58:11  
**tall** [10] - 5:10, 5:21, 19:15, 19:18, 20:22, 28:3, 28:6, 70:20, 80:14, 81:13  
**taller** [2] - 45:24, 80:14  
**targeted** [2] - 48:22  
**taught** [1] - 89:16  
**teaching** [1] - 48:19  
**teasing** [1] - 93:14  
**technical** [1] - 86:5  
**telecommunication** [2] - 18:12, 106:7  
**telecommunication** [5] - 18:22, 19:8, 21:4, 106:18, 106:25  
**telephone** [2] - 23:12, 69:25  
**television** [1] - 32:10  
**temporary** [9] - 64:18, 89:3, 89:4, 95:12, 117:15, 117:18, 117:25, 118:4, 118:7  
**Temporary** [4] - 62:25, 88:16, 117:5, 119:5  
**temporary-use** [1] - 118:7  
**tenant** [2] - 23:21, 48:8  
**tenants** [3] - 23:9, 40:9, 40:14  
**tends** [1] - 11:22  
**term** [1] - 93:15  
**terminus** [1] - 75:16  
**terms** [5] - 33:25, 35:23, 43:2, 43:3, 78:10  
**Terrace** [1] - 69:12  
**terrible** [1] - 82:20  
**testified** [2] - 99:19, 111:23  
**testimony** [10] - 100:6, 102:20, 105:5, 107:2, 109:7, 114:3, 116:5, 118:3, 121:6, 122:9  
**THE** [4] - 1:2, 3:2, 97:2, 98:10  
**theirs** [2] - 16:18, 70:15  
**theme** [3] - 8:13, 45:16, 92:7  
**therefore** [4] - 64:6, 86:23, 106:16, 106:20  
**they've** [2] - 9:9, 95:6  
**thick** [1] - 94:2  
**thin** [1] - 64:3  
**thinks** [1] - 65:21  
**third** [1] - 83:11  
**three** [10] - 9:11, 10:9, 29:19, 38:15, 40:9, 41:12, 41:15, 91:18, 95:14, 96:8  
**three-dimensional** [1] - 9:11  
**threw** [1] - 69:18  
**throughout** [1] - 91:18  
**throw** [1] - 33:6  
**thumb** [1] - 5:22  
**tie** [1] - 94:4  
**tied** [1] - 50:15  
**tighter** [1] - 94:11  
**tilting** [1] - 72:2  
**timeframe** [3] - 96:9  
**today** [10] - 53:17, 53:22, 57:20, 57:21, 60:11, 61:17, 68:3, 73:13, 80:22, 92:22  
**Todd** [1] - 41:5  
**tofu** [1] - 42:5  
**together** [1] - 69:18  
**TOMPKINS** [14] - 1:11, 5:24, 6:20, 16:4, 31:7, 47:21, 58:19, 76:2, 76:16, 76:19, 92:23, 95:3, 95:9, 97:10  
**Tompkins** [13] - 98:12, 100:10, 102:24, 105:13, 107:9, 109:19, 112:20, 112:21, 114:6, 116:11, 116:12, 118:12, 121:9  
**TOMPKINS-**  
**WRIGHT** [1] - 47:21  
**tonight** [6] - 3:5, 9:16, 18:19, 59:16, 88:7, 89:2  
**Tony** [1] - 59:13  
**took** [1] - 59:23  
**top** [10] - 18:23, 19:17, 20:4, 22:23, 47:6, 70:18, 75:13, 77:14, 78:13, 85:8  
**total** [1] - 19:18  
**totally** [1] - 43:24  
**towards** [5] - 14:15, 72:6, 72:7, 75:11, 78:24  
**tower** [2] - 89:5, 91:9  
**towers** [1] - 22:16  
**Town** [5] - 1:5, 1:13, 69:7, 97:5, 97:13  
**town** [5] - 18:24, 46:6, 70:22, 71:7, 111:15  
**TOWNSEND** [1] - 84:14  
**Townsend** [1] - 84:14  
**track** [1] - 57:24  
**traditional** [2] - 11:23, 11:24  
**traffic** [4] - 11:5, 27:12, 85:17, 85:20  
**trailer** [11] - 63:2, 65:19, 119:6, 119:17, 119:20, 119:23, 119:24, 120:5,

## EDITH FORBES COURT REPORTING SERVICES

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120:15, 121:2, 121:5  
**training** [1] - 48:19  
**transactional** [1] - 12:4  
**transcription** [1] - 122:7  
**transferring** [1] - 7:11  
**transitioning** [1] - 111:3  
**translucent** [1] - 46:16  
**transpired** [1] - 7:18  
**Trash** [1] - 112:7  
**trash** [2] - 47:13, 112:5  
**travelers** [1] - 102:15  
**traveling** [1] - 10:22  
**tree** [3] - 17:12, 17:14, 28:5  
**trees** [18] - 10:25, 11:7, 11:17, 17:9, 20:10, 20:18, 22:24, 23:4, 27:8, 27:10, 27:13, 27:19, 28:2, 70:13, 79:15, 101:20, 102:13, 107:5  
**tremendous** [1] - 11:20  
**trench** [1] - 34:21  
**triangular** [1] - 82:16  
**tried** [5] - 5:15, 11:14, 59:21, 74:14, 74:15  
**trouble** [1] - 94:12  
**true** [1] - 122:8  
**trust** [2] - 4:15, 84:6  
**try** [3] - 12:11, 73:20, 86:8  
**trying** [11] - 6:21, 11:16, 23:17, 51:7, 54:5, 57:23, 71:15, 75:19, 75:20, 89:21, 90:4  
**tucked** [1] - 29:18  
**Tuesday** [1] - 9:18  
**turn** [1] - 15:18  
**turned** [1] - 30:24  
**turning** [3] - 30:22, 31:5, 33:11  
**TV** [1] - 30:12  
**twice** [1] - 67:7  
**two** [33] - 6:21, 7:24, 9:10, 12:24, 13:2, 41:12, 58:16, 58:17, 63:20, 67:23, 71:8, 73:23, 74:25, 75:2, 80:5, 83:10, 83:11, 88:19, 89:19, 90:10, 90:11, 90:13, 90:25, 91:19, 91:23, 95:18, 95:23, 96:5, 101:12, 101:17, 111:4, 115:20, 117:8  
**two-year** [1] - 95:18  
**type** [5] - 23:13, 28:5, 66:25, 92:7, 111:17  
**typed** [1] - 122:6  
**typical** [1] - 22:11  
**unacceptable** [1] - 108:22  
**under** [7] - 21:5, 29:11, 32:16, 63:11, 94:18, 119:13, 122:7  
**undergoes** [1] - 120:22  
**understood** [2] - 51:15, 68:12  
**undesirable** [1] - 98:16  
**unenclosed** [1] - 55:14  
**unexpected** [1] - 10:17  
**unexpectedly** [1] - 29:14  
**unfortunately** [4] - 11:19, 51:24, 65:10, 70:16  
**uninhibited** [1] - 3:20  
**unique** [1] - 110:22  
**unit** [1] - 32:13  
**unless** [2] - 21:14, 50:15  
**up** [44] - 4:13, 6:7, 8:20, 9:10, 10:12, 10:16, 11:2, 13:20, 15:13, 15:17, 25:10, 31:11, 32:17, 35:2, 37:23, 38:12, 42:19, 47:13, 49:15, 52:7, 56:24, 58:7, 58:13, 58:23, 80:9, 80:13, 81:9, 81:20, 82:10, 82:16, 83:15, 87:21, 89:4, 89:18, 90:3, 91:8, 91:23, 92:12, 92:15, 92:24, 93:5, 93:7, 112:5, 116:6  
**upbeat** [1] - 57:14  
**update** [1] - 71:2  
**updated** [1] - 4:7  
**updating** [1] - 71:12  
**upgrade** [1] - 16:9  
**upgraded** [1] - 32:22  
**upper** [1] - 26:8  
**upstairs** [2] - 29:23, 67:22  
**upwards** [1] - 72:7  
**utilities** [3] - 34:21, 34:22, 109:10  
**utility** [4] - 21:6, 24:3, 26:15, 26:21  
**Valley** [5] - 13:9, 13:16, 13:18, 16:7, 104:4  
**value** [5] - 60:15, 60:20, 62:13  
**van** [2] - 66:10, 66:11  
**variance** [51] - 10:3, 14:16, 18:21, 19:4, 19:11, 19:25, 23:15, 25:12, 28:21, 29:7, 29:10, 29:11, 33:18, 35:19, 35:20, 36:4, 39:23, 40:8, 40:15, 50:16, 51:19, 52:3, 52:12, 53:7, 62:6, 69:6, 73:4, 73:23, 73:25, 79:5, 84:2, 98:15, 98:25, 101:5, 101:12, 102:18, 104:11, 104:24, 106:24, 107:4, 108:5, 109:4, 109:6, 110:6, 110:18, 111:5, 111:21, 113:15, 114:2, 115:6, 116:4  
**Variance** [6] - 13:10, 18:11, 68:22, 104:5, 106:6, 113:5  
**Variances** [2] - 2:21, 98:5  
**variances** [4] - 10:9, 50:9, 76:17, 83:9  
**various** [2] - 24:7, 45:21  
**vegetables** [1] - 44:4  
**vegetation** [1] - 27:21  
**vendor** [1] - 94:15  
**ventilation** [1] - 112:12  
**vents** [1] - 55:5  
**Verizon** [6] - 18:9, 21:4, 25:24, 26:19, 26:21, 106:4  
**Versailles** [1] - 7:21  
**version** [1] - 92:24  
**versus** [3] - 43:4, 51:22, 102:12  
**verticality** [1] - 46:4  
**vibrant** [1] - 57:23  
**vice** [2] - 43:17, 88:24  
**view** [5] - 20:12, 22:21, 22:22, 72:9, 119:22  
**vinyl** [6] - 16:13, 16:17, 89:14, 93:20, 94:2, 117:16  
**violation** [1] - 53:7  
**visibility** [5] - 101:21, 102:11, 102:13, 113:14, 115:21  
**visible** [14] - 10:22, 19:2, 20:14, 31:2, 69:9, 69:15, 70:4, 70:24, 71:13, 77:3, 77:12, 83:13, 94:18, 115:13  
**visit** [1] - 12:9  
**visiting** [1] - 101:21  
**visitors** [1] - 73:15  
**visual** [1] - 23:2  
**visually** [1] - 111:11  
**voice** [2] - 67:15, 68:9  
**volt** [1] - 78:4  
**vote** [1] - 88:7  
**waist** [1] - 5:14  
**waiting** [2] - 64:14, 68:6  
**walk** [2] - 4:18, 36:23  
**walker** [1] - 30:6  
**walking** [4] - 27:12, 28:10, 64:2  
**walks** [1] - 36:25  
**walkway** [1] - 31:12  
**wall** [11] - 17:18, 17:21, 20:11, 30:25, 31:5, 50:5, 78:18, 94:3, 94:19, 108:17, 115:23  
**walls** [9] - 29:19, 75:8, 82:8, 82:13, 86:16, 86:24, 87:17, 87:19  
**wants** [1] - 86:23  
**Ward** [1] - 73:10  
**wash** [3] - 75:11, 76:23, 83:19  
**washer** [1] - 78:19  
**washing** [1] - 77:16  
**water** [1] - 109:10  
**watts** [1] - 77:25  
**Wayne** [1] - 29:25  
**ways** [2] - 10:22, 74:20  
**weather** [6] - 35:15, 93:4, 93:6, 93:7, 93:21, 93:22  
**weather..** [1] - 76:15  
**Webster** [1] - 41:14  
**week** [2] - 47:19, 68:3  
**weeks** [6] - 41:15, 58:16, 58:17, 67:23, 120:4, 120:8  
**weight** [1] - 30:8  
**welfare** [3] - 109:2, 117:22, 120:18  
**well-noted** [1] - 83:25  
**west** [7] - 3:17, 3:23, 3:25, 4:23, 5:12, 99:11, 111:9  
**whatsoever** [2] - 70:4, 87:15  
**whichever** [1] - 121:4  
**white** [4] - 10:20, 12:19, 12:20, 101:18  
**whole** [8] - 55:9, 60:2, 61:10, 67:3, 78:4, 80:16, 83:19, 90:25  
**wide** [3] - 20:23, 24:17, 85:15  
**wider** [1] - 70:20  
**width** [3] - 7:6, 7:7  
**wife** [4] - 13:16, 13:19, 63:7, 80:4  
**willing** [2] - 2:15, 65:3  
**wind** [1] - 94:3  
**window** [3] - 31:2, 31:5, 108:18  
**windows** [6] - 5:24, 5:25, 6:3, 6:16, 6:18, 63:14  
**windstorm** [1] - 69:13  
**winter** [3] - 11:3, 32:20, 37:4  
**Winton** [6] - 10:2, 10:23, 88:16, 101:4, 102:15, 117:5  
**Wireless** [3] - 18:9, 21:5, 106:4  
**wireless** [2] - 18:22, 26:21  
**wise** [1] - 34:16  
**wishes** [1] - 111:15  
**WITNESS** [1] - 122:14  
**woman** [1] - 108:20

## EDITH FORBES COURT REPORTING SERVICES

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**wonder** [1] - 61:12  
**wood** [1] - 76:11  
**Woodcrest** [2] -  
 1:24, 97:23  
**wooden** [3] - 80:23,  
 81:16, 85:10  
**woods** [1] - 45:21  
**words** [1] - 23:18  
**workers** [1] - 119:19  
**worried** [2] - 93:18,  
 93:22  
**worry** [2] - 85:21,  
 93:18  
**worse** [1] - 59:24  
**worth** [1] - 80:7  
**Wright** [13] - 98:12,  
 100:10, 102:24,  
 105:13, 107:9,  
 109:19, 112:20,  
 112:21, 114:6,  
 116:11, 116:12,  
 118:12, 121:9  
**WRIGHT** [14] - 1:11,  
 5:24, 6:20, 16:4, 31:7,  
 47:21, 58:19, 76:2,  
 76:16, 76:19, 92:23,  
 95:3, 95:9, 97:10  
**written** [2] - 107:2,  
 116:5  
**yard** [5] - 32:3,  
 36:13, 37:2, 43:24,  
 82:11  
**year** [12] - 5:22,  
 58:17, 73:18, 73:19,  
 85:10, 85:11, 89:23,  
 90:2, 91:14, 95:4,  
 95:18  
**years** [21] - 29:13,  
 59:19, 60:17, 69:11,  
 79:6, 80:5, 82:7, 83:2,  
 83:8, 84:22, 88:19,  
 89:19, 90:10, 90:11,  
 90:13, 90:25, 91:19,  
 95:23, 96:5, 117:8  
**Yew** [1] - 28:4  
**yogurt** [3] - 40:2,  
 110:9, 110:19  
**Yolickity** [2] - 40:10,  
 50:14  
**YORK** [3] - 1:2, 97:2,  
 122:2  
**York** [11] - 1:6, 1:25,  
 7:22, 21:5, 37:17,  
 88:23, 97:6, 97:23,  
 109:15, 122:15,  
 122:25  
**younger** [1] - 56:16  
**zone** [1] - 98:18  
**zoned** [1] - 62:7  
**zoning** [5] - 8:20,  
 33:18, 51:13, 61:3,  
 110:15  
**ZONING** [2] - 1:2,  
 97:2  
**Zoning** [1] - 2:3  
**“CoreLife** [2] -  
 39:24, 110:7

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