

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY MARCH 28, 2024

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair
Steven Ng, Vice Chair
Virginia Keesler
Fernando Daniel Hidalgo
William Boehm
Carol Agate

City Employees
Stephen Natola



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617.547.5690

transcripts@ctran.com

I N D E X

CASE	PAGE
CONTINUED CASES:	
BZA-251115 -- 55 HARVEY STREET Original Hearing Date: 01/11/24	6
BZA-159246 -- 30 FAIRMONT AVENUE SIX MONTH EXTENSION REQUEST FOR SPECIAL PERMIT ONLY Original Hearing Date: 02/10/22	43
REGULAR AGENDA:	
BZA-257728 -- 30 SHEA ROAD	46
BZA-258026 -- 241 NORFOLK STREET	48
BZA-258049 -- 202 ELM STREET (NORTH)	54
BZA-257228 -- 359 WALDEN STREET	66
BZA-258526 -- 125 JACKSON STREET	79
BZA-259041 -- 163 ALLSTON STREET	93
BZA-258992 -- 31 BOWDOIN STREET	118
BZA-258983 -- 75 DUDLEY STREET	119

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
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P R O C E E D I N G S

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(6:00 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, William Boehm,
and Carol Agate

JIM MONTEVERDE: Welcome to the March 28, 2024
meeting of the Cambridge Board of Zoning Appeal. My name is
Jim Monteverde, and I am the Chair.

Pursuant to Chapter 2 of the Acts of 2023 adopted
by the Massachusetts General Court and approved by the
Governor, the City is authorized to use remote participation
at meetings of the Cambridge Board of Zoning Appeal.

This meeting is being video and audio recorded and
is broadcast on cable television Channel 22 within
Cambridge. There will also be a transcript of the
proceedings.

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

Members of the public will be kept on mute until
it is time for public comment. I will give instructions for

1 public comment at that time, and you can also find
2 instructions on the City's webpage for remote BZA meetings.

3 Generally, you will have up to three minutes to
4 speak.

5 I'll start by asking Staff to take Board members
6 attendance and verify that all members are audible.

7 STEPHEN NATOLA: Jim Monteverde?

8 JIM MONTEVERDE: Jim Monteverde is here.

9 STEPHEN NATOLA: Steven Ng?

10 STEVEN NG: Present.

11 STEPHEN NATOLA: Daniel Hidalgo?

12 DANIEL HIDALGO: Present.

13 STEPHEN NATOLA: Carol Agate?

14 CAROL AGATE: Present.

15 STEPHEN NATOLA: Bill Boehm?

16 BILL BOEHM: Present.

17 STEPHEN NATOLA: Virginia Keesler?

18 VIRGINIA KEESLER: Present.

19 JIM MONTEVERDE: We have one extra. One second,
20 please. So we should be Virginia, Daniel, Bill, myself, and
21 Carol. Steven, you can sit this one out.

22 STEVEN NG: Very good, I will sit out.

1 JIM MONTEVERDE: Are you coming back for the
2 Regular Agenda? Steven?

3 STEVEN NG: I can.

4 JIM MONTEVERDE: Yeah. Okay. Thank you.

5 STEVEN NG: Okay.

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2 (6:03 p.m.)

3 Sitting Members: Jim Monteverde, Virginia Keesler, Daniel
4 Hidalgo, William Boehm, and Carol Agate

5 JIM MONTEVERDE: First case I'm going to call is
6 a continued case. It is BZA-251115 -- 55 Harvard Street --
7 Harvey Street, sorry.

8 Is there anyone, proponent who wishes to speak?

9 RICHARD LYNDS: Mr. Chairman, good evening.
10 Richard Lynds on behalf of ARM Developers, LLC and we have
11 Matt Mueller with us as well.

12 MATT MUELLER: Yes. I'm here.

13 RICHARD LYNDS: Just a second, Mr. Chairman. Bear
14 with me.

15 Thank you, Mr. Chairman and members of the Board.
16 For the record, my name is Richard Lynds. I'm an attorney
17 with a business address of 245 Summer Street in Boston, on
18 behalf of petitioner for 55 Harvey Street.

19 Mr. Chairman, as you know, we were before the
20 Board last on February 1, at which time the Board heard from
21 a number of residents who raised concerns over the design of
22 the proposed project.

1 The Board had also expressed its concurrence with
2 many of the comments that were raised.

3 We want to thank the Board for giving us the
4 opportunity to work on this and address some of those
5 comments that we did hear, as well as comments that were
6 made in letters that were provided to the Board. And we
7 were able to make some updates in response to those comments
8 that we heard.

9 Since that February 1 meeting, Mr. Chairman, my
10 clients have diligently reached out directly to each
11 neighbor, who either submitted comments or opposition or
12 spoke at the hearing.

13 I've included copies of the letters that were
14 delivered by my client, and I am pleased to inform the Board
15 that based on that outreach, we believe we were able to
16 address a number of the chief concerns that were raised at
17 the hearing, as well as comments that were raised in
18 letters.

19 And I will have Matt walk through that in a
20 moment.

21 Also, the Board now has in its file several
22 follow-up letters. I believe those should be in the system

1 -- from abutters who did raise objections to the original
2 design at the February hearing. They are now either revised
3 their opposition to either be supportive of the design for
4 the updated changes or no longer in opposition to some of
5 the design that we've proposed.

6 In addition, I would point out there's a letter of
7 general support for the project from an abutter who was
8 previously neutral.

9 Real briefly, Mr. Chairman, specifically the
10 concerns about the design -- that's to refresh the Board's
11 recollection -- was the size of the proposed dormer on the
12 right side of the building, which has been eliminated; the
13 size of the dormer and the windows on the Westley Street
14 (sic) side of the building, which have been reduced; the
15 proximity and the size of the proposed deck and the balcony
16 in relationship to the abutters of the rear, which have both
17 been reduced, as well as moved further away from that
18 abutter.

19 And we've also provided a rendering with an
20 updated depiction that illustrates the driveway location in
21 relationship to the abutter to our rear.

22 I'll finish with this, Mr. Chair: While I do

1 understand the abutter that's located at 6 Westley continues
2 to object to the proposed garage, I did have a chance to
3 read the most recent letter.

4 And I want to point out that most of the concerns
5 that are being raised to the Board would be no more
6 detrimental than what would be experienced by the use of his
7 own garage.

8 Issues such as fumes and noise and vehicles
9 entering and exiting are all things that would be evident,
10 or that would exist with respect to that owner's operation
11 of his own property with the garage. So I don't understand
12 the objection to that.

13 But would also want to point out that the
14 introduction of the garage would actually eliminate a
15 nonconformity on the property and bring it to compliance
16 with the Zoning Code with respect to parking.

17 So at this time, Mr. Chairman, if I may, I would
18 like to turn over to Matt Mueller to walk through the Board,
19 if we can, of some updates. And I would be happy to answer
20 questions of the Board after Matt concludes. He has a very
21 brief presentation on his updates. If that's okay with the
22 Board.

1 JIM MONTEVERDE: Okay. That is good. Yeah. Just
2 focus on what's new before us tonight.

3 RICHARD LYNDS: Sure. Will do.

4 So -- And I'm not sure if the person handling the
5 slide deck -- we did upload - there we go, right here,
6 perfect -- so we're ready to jump to that next slide now,
7 and then I'll let Matt jump in on the next slide. Here we
8 go.

9 MATT MUELLER: Good evening, Chairman and members
10 of the Board. My name is Matt Mueller from Hue
11 Architecture. My business address is 53H Harvard Street in
12 Dorchester, Massachusetts. And I'll quickly jump into this.

13 As Richard was saying, we took great care to
14 listen to the abutters and try to address their concerns
15 while still trying to maintain the character that we saw --
16 the beautiful characteristics that we saw in the
17 architecture.

18 In this slide, we're showing that large dormer on
19 the street-facing side was reduced in height by, I believe,
20 over 5'. And we divided that window, so it was into two
21 distinct smaller window.

22 I'd also like to point out that the upper window

1 is in a master bathroom. So that window will be -- there
2 will be a translucency to it, so that those can't -- people
3 can't see in, and also the people using the bathroom won't
4 be able to see out. It's more of a light -- to allow light
5 to come into the room.

6 And the window below it is a bedroom. Therefore,
7 it will be closed off a lot of the time. It won't be open.
8 The window on the corner is to a double height space.

9 That's allowing light to come into the space. And it's
10 important to point out that we didn't want to -- well, we're
11 not allowed to, by right, open windows on the back sides of
12 this building. And we didn't want to open windows because
13 of privacy concerns with the neighbors.

14 So these large windows on the street-facing side
15 are really -- have a practical purpose to allow light deep
16 into the space, because we cannot open windows on the back
17 sides of the building.

18 Next slide, please?

19 On this side of the building, we did have a dormer
20 there that was over the stair. But we managed to make the
21 stair work without the dormer and the window. So we
22 completely removed that dormer and added the skylight above

1 to allow light to come in.

2 Next slide, please?

3 On the back side, we had the garage, of course,
4 and we had balconies that stretched from the -- from our
5 building all the way to the back of the site.

6 We dramatically reduced the balcony on the second
7 floor and the roof. You can see along the second floor,
8 there will be practically no viewing into the neighboring
9 site.

10 And the one on the roof we reduced it. It's over
11 12' from the back rear line. So there will be no practical
12 viewing into the neighbor's rear yard, as he was concerned
13 with in the previous objection.

14 Next slide, please?

15 This is showing on the first floor. The only
16 change we made here was we widened the garage slightly --
17 you know, besides giving the car more room, we were also
18 hoping to move the garage door away from the neighbor as
19 much as we could and move the curb cut away as much as we
20 could.

21 You know, it's only -- you know, maybe we added
22 another foot there in terms of the curb cut, moving away

1 from the neighbor. But we do think that was something small
2 to address his concerns.

3 Next slide, please?

4 This is -- if you'll notice the red dimensions.
5 Previously, we had that second-floor balcony going all the
6 way to the back of the building. It was over -- almost 17'
7 deep, and now it's over 7' -- it's almost 8' from the rear
8 of that -- above the lot. And it's only -- so it's been
9 reduced by over 30 percent, and we've taken away the viewing
10 into the neighbor's property.

11 Next slide, please?

12 You can see here we had a full-sized roof deck
13 over that -- at that rear portion. And we've reduced it by
14 over 75 percent. So we're over 12' from the rear line and
15 over 5' from the side lot line. So that gives both abutting
16 neighbors on that corner more privacy.

17 And, you know, one of the concerns was there would
18 be parties up there, there would be a lot of gatherings. So
19 really, it's only functionally -- you know, you can maybe
20 fit a couple chairs and a small table there.

21 It was always meant for private use for that
22 master suite, but now it literally cannot be used for

1 anything more than that.

2 Next slide, please?

3 RICHARD LYNDS: I think that was it, Matt.

4 MATT MUELLER: Yeah.

5 RICHARD LYNDS: So if I may, Mr. Chairman, just
6 briefly. So the reductions that were proposed in the
7 modifications including the elimination of the dormer to the
8 right actually allowed us to reduce the total square footage
9 of floor area in that attic area.

10 So the only addition now, or at least the area
11 that would be additional -- and Matt, correct me if I'm
12 wrong -- involves the basement level.

13 And we -- because we are compliant with the
14 Resiliency Requirements for utilization of the basement, I
15 believe there's a certification for that -- that would not
16 count towards the gross floor area.

17 So it's really been now just reduced down to the
18 private open space matter that remains.

19 And I would point out we did -- we were asked
20 about this at the last hearing about, you know, what is the
21 hardship and I'm sure I don't have to educate this Board as,
22 you know, understanding that the hardship refers to

1 conditions affecting the parcel that does make it difficult
2 to comply with the regulations of course -- based upon
3 whether it's, you know, physical characteristics,
4 topography, or things that make it impractical or impossible
5 to develop the property.

6 With the zoning requirement size, the Board is
7 well aware this is a preexisting, nonconforming structure,
8 and a nonconforming use. While hardship has many different
9 avenues by which you can demonstrate, there are things such
10 as financial constraints, unique circumstances, and
11 certainly preexisting conditions.

12 With this one being a preexisting, nonconforming
13 use of a structure, there are a number of characteristics
14 that certainly make this property unique, and certainly
15 challenging to meet all of the requirements of the code for
16 a renovation like this.

17 I would point out and stress to the Board that
18 with these changes to the remaining relief that we're asking
19 for is the minimum relief that would be necessary and
20 appropriate for an investment of the property, while
21 allowing preservation of the existing structure extending
22 its use for life and longevity.

1 I would also point out that the conditions
2 concerning the open space be the only item left for relief
3 -- you know, based upon our modifications. It's already a
4 preexisting, nonconforming condition.

5 But lastly, you know, as this Board I'm sure is
6 aware, it's a generally stated goal of Zoning Ordinance is
7 that nonconforming uses and nonconforming conditions not be
8 continued indefinitely.

9 And therefore, changing this proposed occupancy --
10 and I certainly understand the policy arguments that have
11 been raised about going from four units to one -- but it
12 cannot be overlooked that changing this from a four-unit to
13 a one-unit and making it a conforming use certainly with the
14 addition of parking would brings this more in line compliant
15 to the zoning code, and certainly isn't contrary to the
16 public good and does not substantially derogate from the
17 purpose and intent of the Zoning Ordinance.

18 So with that, I thank the Board for its time for
19 allowing us to represent and make these -- you know, make
20 these changes available to the Board. And I'm happy to
21 answer any questions.

22 JIM MONTEVERDE: Any questions from members of the

1 Board?

2 DANIEL HIDALGO: Yeah. Can you just help me
3 understand exactly why -- I guess I'm -- one thing I'm just
4 questioning -- I have a question about now is the need for a
5 variance as opposed to a special permit.

6 So because -- let's see -- you know, things like
7 the open space were a preexisting nonconformity, so -- you
8 know, typically that doesn't require a variance.

9 Is it the GFA that's causing this? Because, as
10 you noted, the basement is exempt. And so, I guess I don't
11 -- you can just walk through what the need for the variance
12 is as opposed to the special permit.

13 RICHARD LYNDS: Sure. Thank you.

14 MATT MUELLER: Richard -- quickly can I make one
15 comment?

16 RICHARD LYNDS: Yup.

17 MATT MUELLER: We do have one -- we do have a
18 slight violation with the FAR because that one dormer, it
19 raises the height from over 7' where it was previously below
20 5'.

21 RICHARD LYNDS: Oh.

22 MATT MUELLER: But it only adds, like, maybe I

1 think 20, 25 square feet to the -- that's nonconforming.

2 DANIEL HIDALGO: I see. So that's the new
3 existing nonconformity. Okay, that -- I just missed that.

4 RICHARD LYNDS: Yeah, I apologize. So that's not
5 -- we were still requesting relief. I guess I probably
6 should have clarified. That is reducing that original
7 requested, extent of variance was being reduced from the
8 previous item to a lower amount.

9 And then the remaining item is the reduction in
10 the private usable open space as well. So those are both
11 items that do require a variance.

12 And I believe based upon the provisions, I think
13 it's Article 8.22.3 -- we don't meet the requirements of
14 8.22.1 or 8.22.2, and therefore we can't obtain a special
15 permit for that.

16 JIM MONTEVERDE: Okay. Thank you.

17 DANIEL HIDALGO: Thank you.

18 JIM MONTEVERDE: Any other questions from members
19 of the Board?

20 BILL BOEHM: Yes. Can you go to the slide that
21 shows Project Updates No. 4 and 5, please, Olivia?

22 My question is, is on the image -- the larger

1 image lower left presented March 28, we see the neighbor's
2 garage adjacent to the proposed garage. And the image
3 presented on February 1, we only see the proposed garage.

4 So I'm just questioning is there a change to the
5 neighbor's property that is happening at the same time, or
6 what's going on with these two images?

7 MATT MUELLER: I can address that. So the
8 original image we -- that was -- we didn't render it
9 accurately. And that was one of the complaints by the
10 neighbor, that we weren't showing the accurate depiction.
11 So we didn't want to go back and alter that, we just wanted
12 to show what we originally presented.

13 And the second image is actually the accurate
14 rendering, where it's showing the neighbor's garage and how
15 close that is to the property. You can see in the Google
16 Earth image there the edge of his garage as it exists with
17 the existing property.

18 BILL BOEHM: Okay. And then just while we're
19 there, tell me -- in this image, can you describe the change
20 you made to your -- to the proposed garage from your
21 previous design?

22 MATT MUELLER: Yes. So the garage -- the only

1 change with the garage is it expands toward our -- toward
2 the white portion of the house by about a foot. So it
3 doesn't get any closer to the neighbor's property.

4 But the main change you're seeing here is that the
5 balconies are pushed back further away from his property.
6 If you look above the garage, that's the main thing we're
7 trying to show there.

8 BILL BOEHM: Thank you.

9 MATT MUELLER: Mm-hm.

10 JIM MONTEVERDE: Any other questions from members
11 of the Board?

12 CAROL AGATE: Yeah. The -- as far as the hardship
13 goes, you say that the literal enforcement of the provisions
14 of this ordinance would not allow for the needed repairs.

15 Why is this -- why is that a hardship in the
16 repairs? I would think the repairs would be a lot simpler
17 than a total redo of the building. So why is a total redo
18 more feasible than the repairs?

19 RICHARD LYNDS: Yeah, I don't -- if I may, I don't
20 believe that the entire renovation of the building
21 represents the hardship. I think we're speaking
22 specifically to the two items that we're requesting relief

1 for, and that would be the slight increase in the floor area
2 for the upper level.

3 And I believe that's based upon the design with
4 the stairwell. I can have -- Matt certainly can discuss the
5 more intricate details of that.

6 And because -- it's really just because of the way
7 that the stairwell was working and the way that the dormer
8 in the bathroom area is aligned.

9 And the second issue is I don't believe there's
10 really any way around it.

11 We're bringing the property into compliance with
12 parking. And the only way to actually make that work
13 results in some reduction of that open space area.

14 But those are already nonconforming conditions.
15 So, you know, by requesting the relief for those items,
16 those are the bare minimum that we would need -- and we feel
17 that, you know, the overall bringing the property into
18 compliance both parking and use, you know, is certainly
19 something the Zoning Code recognizes being an important
20 component as well.

21 CAROL AGATE: Thank you.

22 BILL BOEHM: Just clarification: I don't believe

1 the Zoning Code requires any -- there is any mandatory
2 parking in Cambridge anymore, unless I'm -- unless I'm
3 mistaken.

4 JIM MONTEVERDE: Right. Correct.

5 Any other questions from members of the Board? If
6 not, I will summarize the pieces of correspondence we have
7 in the file before we open it up to public commentary.

8 We have a letter -- I'm looking for a date, no
9 date -- Jason Sakos, 61 Harvey Street: No objection to the
10 proposed project.

11 Emily Moreshead, March 26; 5 Westley Avenue:
12 There are a couple things being mentioned here. Their
13 concerns about the conversion from multifamily to single-
14 family, saying Westley Avenue consists of single-family
15 homes that are approximately 1,500 square feet, and
16 commenting that this proposal for 4,000' or whatever the new
17 number is is vastly out of place.

18 Second: concern with the proposed curb cut.

19 Third: Concern about the -- significant concerns
20 about construction impacts to the neighborhood, which really
21 isn't the Zoning purview.

22 And lastly, that they are concerned the design is

1 -- the overall design is incompatible with the neighborhood.

2 Next: March 28 -- this is from Jonathan Slate, 6
3 Westley Avenue, whose home directly abuts the back of 55
4 Harvey Street. They're saying that the dormer alteration
5 facing Westley Avenue is acceptable, with its altered state.

6 The revised decks are acceptable. They ask you
7 provide a privacy screen as high as possible for each deck
8 to limit visual and sound effects.

9 And finally, they strongly oppose the garage
10 proposed next to their residence that would affect quality
11 of life; hears cars coming and going, garage door opening
12 and closing, people talking, things moving in and out.

13 And they ask that we not approve the zoning relief
14 requested.

15 And that is all the new correspondence.

16 So I will open it up to public commentary. Any
17 member of the public who wishes to speak should now click
18 the icon at the bottom of your Zoom screen that says, "Raise
19 hand."

20 RICHARD LYNDS: Mr. Chairman, I apologize. Was
21 there one other correspondence? I think it was -- did you
22 -- I don't know if I missed it, maybe my audio was cut out.

1 It was a Ms. Van Campen as well, who had provided follow-up
2 correspondence.

3 JIM MONTEVERDE: Hold on one second. Yes. Thank
4 you. This is from Jennifer Van Campen, March 17, which
5 basically starts off by being disappointed that a four-
6 family building containing approximately 3,000 square feet
7 is being changed to a single-family of approximately 4,000
8 square feet -- public policy difference and not within your
9 purview.

10 But it finishes, "While I cannot support this
11 project for the above reasons, I do not object to it."

12 RICHARD LYNDS: Okay.

13 JIM MONTEVERDE: And the rest from the previous
14 hearing.

15 So that's everything we have in the file. And
16 I'll open it up to public. Any members of the public who
17 wish to speak should now click the icon at the bottom of
18 your Zoom screen that says, "Raise hand."

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

21 I'll now ask Staff to unmute the speakers one at a
22 time. You should begin by saying your name and address, and

1 Staff will then confirm that we can hear you. After that
2 you will have up to three minutes to speak before I ask you
3 to wrap up.

4 Do we have anybody -- yes, we do. Someone calling
5 in.

6 STEPHEN NATOLA: Jonathan Slate?

7 [Pause]

8 Jonathan Slate to speak?

9 JIM MONTEVERDE: Jonathan Slate, do you have your
10 hand raised? Okay. Can we go to the next one?

11 STEPHEN NATOLA: Shimon Rura?

12 SHIMON RURA: Hi, everyone. This is Shimon Rura
13 from 10 Westley Avenue. I think you've heard and read some
14 of the objections from my neighbors.

15 I would just call the Board's attention to the
16 design of this home and the proportions. I find them highly
17 out of place for this neighborhood and would urge serious
18 reconsideration of the design.

19 Thank you.

20 JIM MONTEVERDE: Thank you for calling in.
21 Jonathan Slate, are you there? You raised your hand.

22 [Pause]

1 No. Anyone else?

2 STEPHEN NATOLA: Mary Kent? Mary Ellen Kent? 617
3 -- 5557 to speak.

4 JIM MONTEVERDE: Can the Board members hear us?

5 DANIEL HIDALGO: Yeah.

6 JIM MONTEVERDE: All right.

7 CAROL AGATE: It's strange that so many are having
8 problems.

9 JIM MONTEVERDE: All right. I think we're going
10 to close public testimony. Discussion from members of the
11 Board.

12 BILL BOEHM: Question -- sorry, Jim, a question of
13 process. If people are having a hard time calling in, and
14 maybe they're hearing us, can they text in comments or
15 something? Just close them out if they're having technical
16 difficulties?

17 JIM MONTEVERDE: I don't know. Stephen just --
18 our Zoning Assist just left the room. When he comes back,
19 I'll ask him that question.

20 Carol, did you have -- something for discussion?

21 CAROL AGATE: Yes. And I'm eager to hear what the
22 neighbors say. Because I find this is really a dilemma.

1 Because it's such a clear case of gentrification, which
2 really is not one of the things that we've been considering
3 or I don't even think we're allowed to consider it, I don't
4 know.

5 But as far as the substantial detriment to the
6 public good, this is a radical change in this neighborhood.
7 That location is right smack in the middle of a lot of two-
8 family houses, small houses. It's going to dominate over
9 them. It's -- it's changing housing for four people into
10 housing for one family. And yet none of this really fits
11 within not allowing a variance or maybe it does, after all.
12 If it's considered a detriment to the public good -- and of
13 course we need to hear from more members of the public there
14 -- then that might be enough for not allowing a variance.

15 Because I don't think that this -- as beautiful as
16 the house is, that's not where it belongs. And it's going
17 to have a dramatic effect on Westley Street. It's right
18 there at the entrance to the street.

19 That's it -- a street of small houses.

20 RICHARD LYNDS: May I respond briefly, Mr.
21 Chairman?

22 CAROL AGATE: Jim, you're muted.

1 JIM MONTEVERDE: Thank you, Carol. No, this is
2 discussion among the Board, so --

3 RICHARD LYNDS: Okay.

4 JIM MONTEVERDE: -- let us have our chat. Anyone
5 else have any discussion? Virginia?

6 VIRGINIA KEESLER: I am inclined to agree with
7 Carol. I do feel that converting a building from four units
8 into one does derogate from the intent of the Code in terms
9 of prioritizing housing stock within the city.

10 I -- you know, we've heard cases in the last
11 couple of months where it was converting buildings from
12 three units into two, where I felt that I wasn't very
13 comfortable taking a hard line in those cases because I also
14 recognize the importance of diversity in size of units, but
15 to me this case is a bit more extreme than that. And so, I
16 do find that to be a concern.

17 JIM MONTEVERDE: Yep. And Steven, you can correct
18 me if I'm wrong, but I don't think there's anything in the
19 Ordinance that prevents someone from -- I forget what the
20 correct term is, but basically going from a multifamily to a
21 single-family, right? I think there's a move afoot to
22 introduce that through the City Council, but I don't think

1 that's in the documentation at the moment.

2 So I hear you both, but I don't know that we could
3 make a statement based on that. Just keep that in mind.

4 Anyone else have any comments, discussion?

5 BILL BOEHM: Yeah. On the same topic, I agree
6 there is no -- presently no -- nothing about down converting
7 to smaller numbers of units in buildings.

8 But I do -- I think it's fair to look back at the
9 overall purpose of the Zoning Ordinance, which is the state
10 mandate that sort of sets up the whole Zoning Board process.

11 And the purpose of the Zoning Ordinance -- and
12 because we're the wardens of the Zoning Ordinance I think
13 it's fair for us to sort of pay attention to these -- it's a
14 long paragraph, but it includes things like, "Avoid undue
15 concentration of population... encouraging housing for persons
16 of all income levels... encourage the most rationale use of
17 land..." and "... to protect residential neighborhoods from
18 incompatible activities, including consideration of plans
19 and policies adopted by the Cambridge Planning Board."

20 So it's a big paragraph that could be taken
21 different ways, but I read it to be the underlying purpose
22 of the Zoning Ordinance is to pay attention to what's going

1 on in the city and be in line with that.

2 And it's very clear that in our city we have a
3 housing crisis. And so, this is, as witnessed in the last
4 City Council meeting, been recognized as one of the problems
5 of the housing crisis is downconversion. So I think it's
6 fair for us.

7 It wouldn't be the only reason for a no variance
8 on this. I mean, the basis of the variance is still
9 questionable. So I think it -- but this plays into it, in
10 my opinion.

11 JIM MONTEVERDE: Okay. Thank you.

12 When you mentioned the variance criteria, that's
13 the one that I'm stuck on. I don't --

14 SHIMON RURA: Excuse me. Sorry, this is Shimon
15 Rura. I just want to mention that my neighbor Jonathan
16 Slate, who was having trouble commenting on before --

17 JIM MONTEVERDE: Yeah.

18 SHIMON RURA: -- has come over to my home and can
19 comment through here.

20 JIM MONTEVERDE: Okay. We're going to open it
21 back up for public in two minutes.

22 SHIMON RURA: Thank you.

1 JIM MONTEVERDE: If you'll hang on, please. But
2 thank you for letting us know.

3 So at the moment, I'm rereading what the Board has
4 to find all of the conditions for a variance. And I don't
5 see it. So I am stuck there.

6 I don't know if other Board members feel the same
7 way.

8 DANIEL HIDALGO: Yeah. May I add my two cents?
9 Jim, are you done, or -- yeah. This is Daniel Hidalgo. I
10 just want to concur on that point. While I probably agree
11 with Virginia and Bill. My actually primary concern is the
12 criteria for the variance.

13 And in particular, I guess I haven't been sold on
14 why -- why this couldn't be done by just increasing existing
15 nonconformities sitting under the special permit process.

16 I mean, maybe there's something I'm missing, but
17 to me that seems like more -- you know, the barrier. The
18 requirements are lower, and I just don't see what's inherent
19 to the property that would lead -- that leads this
20 development to go farther than the requirements for the
21 variance.

22 So that's where I'm coming from.

1 JIM MONTEVERDE: Okay. Thank you. Any other
2 discussion from members of the Board? Otherwise, I think
3 we've hopefully fixed our technical issues, and we can bring
4 some of the public back.

5 CAROL AGATE: Jim, do you feel there is
6 substantial detriment to the public good?

7 JIM MONTEVERDE: Well, that or I'm not seeing it
8 related to the -- that the hardship is relating to soil
9 condition, shape, or topography of the land. I'm not seeing
10 that it's based on that.

11 And I don't even have to go into the substantial
12 detriment. Again, we have to find -- you know, that it
13 meets all of those.

14 And I'm stuck on just "owing to the circumstances
15 relating to the soil condition, shape or topography of the
16 land or structures, and" et cetera.

17 So I'm stuck there. I realize the next sentence
18 is basically, "desirable relief may be granted without
19 either substantial detriment to the public good," but I'm
20 unsure that I could -- that it's within our purview to say
21 that the change from four-family to one family is detriment
22 to the public good? Although I think it's kind of obvious?

1 But --

2 RICHARD LYNDS: Mr. Chairman, I --

3 JIM MONTEVERDE: -- that's not clear.

4 RICHARD LYNDS: May I add one thing?

5 JIM MONTEVERDE: Yep. Go ahead.

6 RICHARD LYNDS: So I mean I respect the Board's
7 conversation on this, but the -- it seems that the focus is
8 the reduction from four units to one unit, which I believe
9 has already been stated is not a violation of the Cambridge
10 City Ordinance or the Zoning Code.

11 So the reduction from the four to the one, I
12 understand that that is weighing heavily on the
13 consideration of whether or not there's a substantial
14 detriment to the public good.

15 But I believe the Board's responsibility is to
16 focus on the items that are being requested for a variance,
17 not necessarily -- you know, what the windows look like or,
18 you know, what color the paint is.

19 And in this particular case, the two issues are
20 the floor area ratio and the additional floor area, and the
21 reduction -- very slight, I might add, in the private open
22 space.

1 So those are the items that I believe the Board
2 needs to be focusing on when it comes to determining whether
3 or not there's a substantial detriment to the public good.

4 I fully understand and I hear the Board's
5 position. There's a reluctance to want to see a reduction
6 in housing units. But that's not what the Board's being
7 asked to consider here. And the Board is being asked to
8 consider the variances that are before it, not -- whether or
9 not we are permitted to reduce from four to one. I just
10 want to make sure that's on the record.

11 JIM MONTEVERDE: All right.

12 RICHARD LYNDS: Thank you, Mr. Chair.

13 JIM MONTEVERDE: Thank you. I'm going to reopen
14 public comments, since we have folks who can call in. Any
15 member of the public who wishes to speak should now click
16 the icon at the bottom of your Zoom screen that says, "Raise
17 hand."

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

20 I'll now ask Staff to unmute speakers one at a
21 time. You should begin by saying your name and address, and
22 Staff will confirm that we can hear you. After that you

1 will have up to three minutes to speak before I ask you to
2 wrap up.

3 STEPHEN NATOLA: Shimon Rura?

4 JONATHAN SLATE: Yes. This is Jonathan Slate at 6
5 Westley Avenue. I was unable to connect at my home. And
6 after I'm done speaking, my other neighbor Mary Ellen Kent
7 at 8 Westley Avenue, who was also unable to connect, would
8 like to speak.

9 JIM MONTEVERDE: Okay. Go ahead.

10 JONATHAN SLATE: Yes, my -- the side of my house
11 directly abuts the back of 55 Harvey Street. And at the
12 beginning, it was mentioned that my carport has the same
13 issues. It would be nothing different than the garage that
14 they're proposing to put in.

15 But my carport is already there. And this is
16 something new they're proposing. And so, that's what the
17 issue is.

18 First of all, in an attempt to be agreeable with
19 the people at 55 Harvey Street, though I don't like the
20 dormer -- the changes they made -- I could live with this I
21 said in my letter.

22 In regards to the decks, I appreciate the fact

1 that they've listened to our concerns and decreased the size
2 of the decks. And as I said in my letter to the Board that
3 as long as the size is the same, you know, that's okay with
4 me. The size of the deck on the second floor they've left
5 the same.

6 But the size of the deck on the third floor I've
7 now realized -- I misunderstood it before -- is different
8 than it is now. Right now, there's just a small deck facing
9 Westley Avenue.

10 And there's a large area that's raised on the roof
11 next to it, sort of like a hump, which sort of protects me
12 from that deck. And that raised area is going to be
13 leveled, and the new deck will be facing me.

14 So that's something that would be really, really
15 disconcerting to me. And now that I see how it is at this
16 presentation, I would oppose that third deck -- third floor
17 deck.

18 In terms of the garage, I'm very, very opposed to
19 that. Because it's going to add so much new traffic and
20 noise and other things right next to my house. I sent in a
21 picture, and you can see that I'm just inches away from
22 their house.

1 And we're going to be hearing, you know, garage
2 doors open and close, cars coming in and out, people coming
3 out, things going in and out, the way that people use their
4 garages.

5 And there's going to be a lot more noise added as
6 well as traffic at the end of the street. And there's
7 already a narrow street with trucks parked there as it is.
8 And they made a route showing the car entering that garage
9 or driveway from Westley Avenue, and it's really
10 unrealistic. You cannot drive down the road and turn right
11 into the driveway.

12 I know, because I have a wider girth than they do,
13 and I have to go past my driveway back up and then go in.
14 And that's the same thing that they will need to do, and
15 they'll be backing up in front of myself and in front of 5
16 Westley Avenue as well.

17 In addition, they're going to have to --

18 JIM MONTEVERDE: Shimon (sic), I'm going to ask
19 you to wrap up, please. You're beyond the three minutes.

20 JONATHAN SLATE: Okay. Well, there will be a
21 garage extension as well, which will affect me. And so,
22 because of that I strongly oppose this proposal. And I hope

1 that the Board does not approve it.

2 Thank you very much. And I know my neighbor, Mary
3 Ellen, would like to speak.

4 JIM MONTEVERDE: Yep. Mary Ellen?

5 MARY ELLEN KENT: Hi. This is Mary Ellen. I'm at
6 8 Westley Avenue. And I just wanted to thank Carol and
7 Emily and Virginia. They were very well-spoken about all my
8 concerns and objections.

9 And I also wanted to mention there's a lot of
10 other remodeling going on in the neighborhood: Rindge
11 Avenue, Reed Street, and a very good example would be right
12 across the street, 5 Westley Avenue. And they were all done
13 beautifully and keeping with the architecture of the
14 neighborhood.

15 And I just want to chime in and voice my
16 objections to this, and to thank the other Board members for
17 what they had to say and considering our objections.

18 JIM MONTEVERDE: All right. Thank you. Anyone
19 else, Steven, or is that everybody?

20 STEPHEN NATOLA: Jessica Cashdan?

21 JESSICA CASHDAN: Hello. Jessica Cashdan, 67
22 Dudley Street.

1 JIM MONTEVERDE: Thank you. Go ahead.

2 JESSICA CASHDAN: Yeah. I just want to echo what
3 I've heard a few others say that I am concerned about the
4 architectural design that doesn't stay in line with the look
5 and the feel of the neighborhood.

6 We have an abundance of workers cottages and other
7 structures that have a specific distinct nature and look.
8 And this doesn't align with the look of the neighborhood at
9 all.

10 JIM MONTEVERDE: Thank you. Thanks for calling
11 in. Anyone else?

12 STEPHEN NATOLA: No.

13 JIM MONTEVERDE: I think that's it. So once
14 again, we'll close public testimony.

15 Members of the Board, at this point, I'm trying
16 to read the tea leaves, as Brendan Sullivan used to say.
17 I'm stuck on the hardship portion.

18 I appreciate what they've done to revise the
19 scheme. But I'm stuck on it being following all the pieces
20 required for a variance and particularly the hardship. And
21 in that case, I don't think -- I would not be in favor at
22 the moment.

1 So does anybody else have similar feelings of not
2 being in favor?

3 DANIEL HIDALGO: Yeah, so I --

4 JIM MONTEVERDE: I'm not looking for a vote, I'm
5 just looking for the sentiment.

6 DANIEL HIDALGO: Right. I agree on that ground.

7 JIM MONTEVERDE: Okay. Thank you.

8 CAROL AGATE: I'm sorry, I --

9 JIM MONTEVERDE: Mr. Lynds? Mr. Lynds, are you
10 still with us?

11 RICHARD LYNDS: Yes. I'm sorry, Mr. Chairman.

12 JIM MONTEVERDE: So when we go forward to a vote,
13 if we have two seemingly opposed, you'll be denied. And you
14 can't come back for two years unless something is a
15 significant change.

16 RICHARD LYNDS: Yeah. Understood. Let me just --
17 I'm texting with my client to see if I can just give an
18 answer on what I think is the appropriate step here. But
19 let me confirm with him if you can give me a moment, Mr.
20 Chairman.

21 [Pause]

22 So if the Chair would entertain this, and the

1 Board would consider this, my recommendation in these
2 instances is to ask that the matter be withdrawn without
3 prejudice, if that's acceptable to the Board? I'm not sure
4 if that's the procedure that the Board would like to take.

5 JIM MONTEVERDE: Yep.

6 RICHARD LYNDS: That's -- that would be my
7 recommendation to my client.

8 JIM MONTEVERDE: That works. Stephen? I assume
9 we are good to do that?

10 STEPHEN NATOLA: Yeah.

11 JIM MONTEVERDE: Okay. Let me make a motion,
12 then, to withdraw without prejudice BZA Case 251115 for 55
13 Harvey Street. By a voice vote, please, Carol?

14 CAROL AGATE: Affirms. In favor.

15 JIM MONTEVERDE: Thank you. Daniel?

16 DANIEL HIDALGO: In favor.

17 JIM MONTEVERDE: Virginia?

18 VIRGINIA KEESLER: In favor.

19 JIM MONTEVERDE: Bill?

20 BILL BOEHM: In favor.

21 JIM MONTEVERDE: And Jim Monteverde in favor.

22 [All vote YES]

1 JIM MONTEVERDE: That's five in favor. Withdrawn
2 without prejudice.

3 RICHARD LYNDS: Thank you very much.

4 JIM MONTEVERDE: Thank you.

5 Do they have to sign anything here, Stephen?

6 STEPHEN NATOLA: There you go.

7 CAROL AGATE: Jim, I take it you don't need me
8 here anymore?

9 JIM MONTEVERDE: No. Steven, are you still with
10 us?

11 STEVEN NG: Yes, sir.

12 JIM MONTEVERDE: Okay. Yep. Thank you, Carol.

13 CAROL AGATE: Bye.

14 STEVEN NG: Bye Carol.

15 BILL BOEHM: Bye Carol.

16 JIM MONTEVERDE: So we have Daniel, Virginia,
17 Steven, Bill, and myself.

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2 (6:50 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: Okay. Next case, the Regular
6 Agenda, is BZA 257728 -- 30 Shea Road. And we have a
7 letter?

8 STEPHEN NATOLA: 30 Fairmont.

9 JIM MONTEVERDE: Oh, I'm sorry. I'm ahead of
10 myself. Take a step back.

11 On the Continued Agenda, BZA-159246 -- 30 Fairmont
12 Circle is requesting a six month extension for the special
13 permit only. So. Do we have to pick a date, or just leave
14 it at that?

15 STEPHEN NATOLA: Six month extension?

16 JIM MONTEVERDE: September something? Anyway,
17 the Chair makes a motion to grant the six month extension
18 request for the special permit only on 30 Fairmont Avenue
19 BZA Case 159246, and that's six month extension will take us
20 to October 6, 2023. Right?

21 No --

22 STEPHEN NATOLA: 4.

1 JIM MONTEVERDE: 4. Sorry, that's wrong then.

2 Because 4, that would be -- what's the -- if it expires on
3 04/07 is that correct? It expired a year ago?

4 STEPHEN NATOLA: The variance expired on 04/07.

5 JIM MONTEVERDE: Okay. And what about the special
6 permit? What's the date we're going for that?

7 STEPHEN NATOLA: It would be in that.

8 JIM MONTEVERDE: This one?

9 STEPHEN NATOLA: Yeah.

10 JIM MONTEVERDE: Okay. So it'll go out to October
11 7, 2024.

12 On a voice vote, please? Did Carol leave?

13 BILL BOEHM: Yeah.

14 JIM MONTEVERDE: All right. We'll do David?

15 BILL BOEHM: Daniel.

16 JIM MONTEVERDE: Daniel. Sorry, Daniel.

17 DANIEL HIDALGO: In favor.

18 JIM MONTEVERDE: Thank you. Virginia?

19 VIRGINIA KEESLER: In favor.

20 JIM MONTEVERDE: Steven?

21 STEVEN NG: In favor.

22 JIM MONTEVERDE: Thank you. Bill?

1 BILL BOEHM: In favor.

2 JIM MONTEVERDE: And Jim Monteverde in favor.

3 [All vote YES]

4 JIM MONTEVERDE: The extension is granted.

5 STEPHEN NATOLA: If you could sign that, I
6 believe.

7 JIM MONTEVERDE: Yep.

8 STEPHEN NATOLA: And we're --

9 JIM MONTEVERDE: Okay. And sorry for the
10 confusion there. So back to the Regular Agenda.

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2 (6:54 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: BZA 257728 -- 30 Shea Road. I
6 believe that's going to be continued. Yes. We have a
7 letter from Sarah Roszler requesting a continuance to this
8 case. They ask if it could possibly get on the April 11
9 meeting, I believe not.

10 STEPHEN NATOLA: Yeah.

11 JIM MONTEVERDE: What date do we have?

12 STEPHEN NATOLA: 04/25.

13 JIM MONTEVERDE: It will be continued to April 25,
14 2024. All right. Let me make a motion, then, to continue
15 this matter until April 25, 2024, on the condition that the
16 petitioner change the posting sign to reflect the new date
17 of April 25, 2024 and the new time of 6 p.m.

18 Also, that the petitioner sign a waiver to the
19 statutory requirements for the hearing. This waiver can be
20 obtained from Maria Pacheco or Olivia Ratay at the
21 Inspectional Services Department.

22 I ask that you sign the waiver and return it to

1 the Inspectional Services Department by a week from this
2 coming Monday. Failure to do so will de facto cause this
3 Board to give an adverse ruling on this case.

4 Also, that if there are any new submittals,
5 changes to the drawings, dimensional forms, or any
6 supporting statements that those be in our files by 5 p.m.
7 on the Monday prior to the continued meeting date.

8 On the motion to continue this matter until April
9 25, 2024, by a voice vote of the Board members, Daniel?

10 DANIEL HIDALGO: In favor.

11 JIM MONTEVERDE: Virginia?

12 VIRGINIA KEESLER: In favor.

13 JIM MONTEVERDE: Steven?

14 STEVEN NG: In favor.

15 JIM MONTEVERDE: Bill?

16 BILL BOEHM: In favor.

17 JIM MONTEVERDE: And Jim Monteverde in favor.

18 [All vote YES]

19 JIM MONTEVERDE: The continuance is granted.
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2 (6:56 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: The next case is --

6 STEPHEN NATOLA: Give me one second, sir.

7 JIM MONTEVERDE: -- BZA 258026 -- 241 Norfolk
8 Street. Adam, are you with us tonight?

9 ADAM GLASSMAN: Yes. Good evening, Jim, and
10 members of the Board. This is Adam Glassman of GCD
11 Architects, with a business address of 17 Brown Street No.
12 2. I'm here representing Tom Klemas for his property at 241
13 Norfolk Street.

14 We are applying for a special permit to add
15 several new windows to the right side of the house within a
16 required setback.

17 Olivia, could you scroll through my plans?

18 There we go. There's two structures on the
19 property. Tom lives in the front structure. We have a
20 right yard setback of no less than 7.5'. The existing
21 right-side wall is about 5.5' from the lot line.

22 This view on the right is the existing structure.

1 The wood fence is the lot line and he's proposing, or we're
2 proposing new windows in the stairway only, from the first
3 to the second floor. None of the windows will be in
4 bedrooms or bathrooms or living rooms; it's purely to get
5 light into the stairway.

6 We have an existing nonconforming lot, and we
7 would have to relocate the entire house to be able to put
8 windows in the right side, in accordance with the Zoning
9 Ordinance. We have no objections from our neighbors, and
10 would say this causes no detriment to the neighborhood or
11 the community.

12 This photo on the upper left, you can see the red
13 outline of where most of the windows will be locate. On the
14 lower right in the site plan, you can see the location of
15 the proposed windows.

16 Oh, it's useful to see that on the lower left-hand
17 photo, our abutting building on the right has no windows
18 looking directly at us, which is nice.

19 Next slide, please?

20 The areas in red are proposed windows in the
21 stairwell on the first and second floor.

22 Next slide?

1 Floor plans showing the proposed windows. We have
2 one existing on the first floor on the right, right before
3 the beginning of the stair. Then we're adding a window of
4 the first run, from the first to the second floor.

5 And then two windows on the second floor. That
6 will bring in a lot of natural light where we currently have
7 none in this portion of the house.

8 Next slide, please?

9 And these two elevations, existing and proposed,
10 show the locations of the three new window openings. And it
11 is for these three windows that we are here seeking the
12 relief for a special permit. That sums it up.

13 JIM MONTEVERDE: Thank you.

14 Any questions from members of the Board? If not,
15 public comment? We have no correspondence in the file,
16 either for or against. So I'll open it up to public
17 comment.

18 Any members of the public who wish to speak should
19 now click the icon at the bottom of your Zoom screen that
20 says, "Raise hand." If you're calling in by phone, you can
21 raise your hand by pressing *9 and unmute or mute by
22 pressing *6.

1 I'll now ask Staff to unmute speakers one at a
2 time. You should begin by saying your name and address, and
3 Staff will confirm that we can hear you. After that you
4 will have up to three minutes to speak before I ask you to
5 wrap up.

6 STEPHEN NATOLA: Nobody.

7 JIM MONTEVERDE: Nobody's raised their hand.

8 Okay. We'll close public testimony. Any discussion among
9 members of the Board? Nope? Okay. Then we go to a motion.
10 This is a special permit. I'll get to that in a second.

11 The Chair makes a motion to grant relief from the
12 requirements of the Ordinance under Sections 5.31 and
13 8.22.2.c and 10.40 for a special permit, specifically
14 regarding the three new windows on the right side of the
15 property that will be within the right-side setback.

16 As a special permit, it appears that the
17 requirements of the Ordinance cannot or will not be met.
18 That's correct.

19 Traffic generated or patterns of access or egress
20 would cause congestion. No.

21 The continued operation of or the development of
22 the adjacent uses would be adversely affected. No.

1 Nuisance or hazard would be created to the
2 detriment of the health, safety, or welfare. No.

3 And for other reasons, the proposed use would
4 impair the integrity of the district or adjoining district.
5 No.

6 So it meets all the criteria for a special permit
7 under sections.

8 On the condition that the work proposed conform to
9 the drawings entitled "241 Norfolk Street, Cambridge, Mass,"
10 prepared by GCD Architects, dated February 12, 2024;
11 initialed and dated by the Chair.

12 And further, that we incorporate the supporting
13 statements and dimensional form submitted as part of the
14 application.

15 On a voice vote, please, Virginia?

16 VIRGINIA KEESLER: In favor.

17 JIM MONTEVERDE: Daniel?

18 DANIEL HIDALGO: In favor.

19 JIM MONTEVERDE: Steven?

20 STEVEN NG: In favor.

21 JIM MONTEVERDE: Bill?

22 BILL BOEHM: In favor.

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JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: Five in favor. The relief is granted. Thank you.

ADAM GLASSMAN: Thank you very much. Goodnight.

1 * * * * *

2 (7:03 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia
4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: 202 Elm Street North. Is the
6 proponent in? Okay.

7 GARY GILBERT: Hello?

8 JIM MONTEVERDE: Can you introduce yourself,
9 please?

10 GARY GILBERT: Yeah. Thank you very much. My
11 name is Gary Gilbert. I've been the owner of this property
12 for over a decade. And I live in Manchester-by-the-Sea.
13 Should I make a presentation or --

14 JIM MONTEVERDE: Please, just tell us what you're
15 seeking relief for. And what relief you're seeking.

16 GARY GILBERT: Originally, I applied for this
17 under the Zoning Ordinance 4.22 about -- concerning the
18 accessory apartments.

19 JIM MONTEVERDE: Yep.

20 GARY GILBERT: And I believe that this old --
21 looks like a garage. This old back building, it's been
22 there for a very long time -- ideally supported the City's

1 goals to make use of underutilized structures without
2 witnessing any new construction.

3 However, I was originally and unfortunately
4 relying on a document called an "Amendment by Substitution"
5 which laid out all the verbiage of the law 4.22 and did not
6 require owner occupancy.

7 I just recently took notice of the fact that the
8 law, the actual statute 4.22 requires owner occupancy to
9 have an accessory apartment in a multifamily structure.

10 So that brings me to the conclusion to perhaps,
11 based on your counsel, request that I can withdraw without
12 prejudice. What I'd like to ask for [is] some direction,
13 and I'd like to know if since this is a very -- it's a
14 classic, underutilized structure that would be ideal forth
15 kind of law -- this structure would go to waste otherwise.

16 It's also sited on the very edge of a residential
17 district. We all know Elm Street is a really busy place
18 with all of the -- I think it's all zone Business C, which I
19 believe does allow multifamily structures as well as
20 businesses.

21 But should I -- would you consider if I was to
22 come back with the application for a Use Variance?

1 JIM MONTEVERDE: Steve? The Zoning Expert, do you
2 follow Mr. Gilbert's Section 4.22 where it says, "Accessory
3 Apartments" and I'm not seeing anything in it about owner-
4 occupant.

5 GARY GILBERT: Excuse me. I didn't hear any words
6 until you just said, "owner-occupied."

7 JIM MONTEVERDE: I'm reading Section 4.22 for
8 accessory apartments, and I'm not finding any mention of
9 owner-occupants.

10 GARY GILBERT: Oh. Well, I -- okay then. I've
11 listed myself perhaps to Google.

12 JIM MONTEVERDE: Yep. So do you want to go
13 forward with what you have?

14 GARY GILBERT: I beg your pardon. Google's
15 usually your friend, but not in this case. Okay. Well, I
16 gave my logic in the application that I believe I think -- I
17 believe this is -- I could -- think of it as a poster child
18 for the accessory apartment effort in Cambridge, because it
19 faces the busy Elm Street and has absolutely no impact on
20 the nearby residential neighborhood.

21 There's a tiny little rear yard that -- with two
22 units, the residents of the two-family structure can make

1 use of. This doesn't increase the intensity of that usage.
2 There's plenty of parking -- more than enough parking in
3 that lot.

4 It -- it's located in a strange place. The --
5 most multifamily districts lead right onto a commercial
6 Street. What can I say? There's -- I don't believe there
7 would be any adverse effect on the neighborhood, and I got a
8 letter of support from at least one neighbor that I'm aware
9 of.

10 JIM MONTEVERDE: Alright. Are you done with your
11 presentation? Good to go?

12 GARY GILBERT: Yes, sir.

13 JIM MONTEVERDE: Yep. Okay. I just wanted to
14 make sure the other members of the Board concur with what
15 I'm reading in Section 4.22.

16 DANIEL HIDALGO: I just read through it as well,
17 and can't find any mention of the owner occupancy --

18 JIM MONTEVERDE: Right. Okay.

19 DANIEL HIDALGO: -- requirement, so.

20 JIM MONTEVERDE: Very good.

21 VIRGINIA KEESLER: I believe that it -- that's in
22 relation to accessory uses, perhaps, rather than accessory

1 -- like in 4.21 rather than 4.22.

2 JIM MONTEVERDE: Correct.

3 DANIEL HIDALGO: Oh, right.

4 VIRGINIA KEESLER: So those are not relevant,
5 yeah.

6 JIM MONTEVERDE: Any questions from members of the
7 Board? If not --

8 BILL BOEHM: Yes.

9 JIM MONTEVERDE: Sorry, go ahead Bill.

10 BILL BOEHM: Yeah.

11 Gary Gilbert, question: I'm looking at the floor
12 plan Sheet A101, maybe you want to bring that up, Stephen?
13 Thank you. I'm a little concerned about light and
14 ventilation.

15 GARY GILBERT: Yeah.

16 BILL BOEHM: I mean, we're not building inspectors
17 here, but if we're going to approve something, I just want
18 to make sure it seems safe and healthy, and it feels kind of
19 like a garage. Are there more windows than what appear to
20 be in this plan?

21 GARY GILBERT: Thank you for asking that question.
22 I would love to put more windows in, but I believe because

1 of proximity to the property lines, I'd have to return for a
2 special permit application for windows.

3 I do believe I could get a skylight in there and
4 not be in the setback. And I'd be happy to do that as part
5 of the building permit application.

6 BILL BOEHM: I think there's one window that's not
7 shown, if I'm not mistaken, next to the primary entry in the
8 photograph. Is that not a window right next to the front
9 door?

10 GARY GILBERT: Yes, it is. That would be -- I
11 would love to make the door full glass, and that window come
12 down close to the ground, and then add also a window
13 flanking the rear door as well as the skylight. That was in
14 my desired list. But --

15 BILL BOEHM: So my concern is that we pass it
16 here, and then it gets kicked back at building permit level
17 for, you know, not having I think it's 8 percent of the
18 floor area as light and ventilation or something to that
19 effect.

20 And I -- speaking for myself, I agree we need more
21 accessory apartments in the city, and I would be amenable to
22 a special permit or a variance allowing additional windows,

1 if that was applied for. And I'm wondering if it would make
2 sense, actually, to withdraw and come back with that
3 consideration in mind.

4 JIM MONTEVERDE: I think you may -- we might
5 suggest a continuance instead of a withdrawal.

6 BILL BOEHM: Right. Sorry, that's what I meant, a
7 --

8 JIM MONTEVERDE: Right?

9 BILL BOEHM: -- continuance.

10 JIM MONTEVERDE: Just come back, get your -- get
11 whatever scope you want together, address the -- go see the
12 folks at ISD, show them what you're trying to do, talk to
13 them about the amount of openings you've got, whether it's
14 skylights or windows.

15 I agree with Bill's concern: Get that, and have
16 that be the proposal that's in front of us, whatever you're
17 looking for.

18 GARY GILBERT: Would the -- so the Board would
19 consider allowing windows within the setbacks?

20 JIM MONTEVERDE: Special permit.

21 BILL BOEHM: We often see -- the last case was,
22 you know, windows in the setback and they were approved, so

1 it's not unusual.

2 GARY GILBERT: I'm happy to do that, and I would
3 ask you do you have any other comments? I would welcome
4 them.

5 JIM MONTEVERDE: No. We're not doing a Design
6 Review. So let's just leave it at that, and I suggest you
7 take this to -- if you haven't already -- to ISD and just
8 show them what you're intending to do and see what the
9 comments are, before you give it to us.

10 BILL BOEHM: Sorry. I do have one comment, just
11 because it comes up a lot in the basement units that are
12 proposed, and that is what flood zone you're in and do you
13 need to provide any kind of flood mitigation.

14 Again, I'm not going to propose or suggest
15 anything, but just something to think about when you're
16 talking to ISD.

17 JIM MONTEVERDE: Yep. Okay, so Mr. Gilbert, are
18 you okay with the continuance?

19 GARY GILBERT: I would appreciate it. And I
20 appreciate your comments.

21 JIM MONTEVERDE: Okay. Stephen, do we --
22

1 GARY GILBERT: I lost -- I cannot hear you.

2 BILL BOEHM: I think he's muted while he's talking
3 to Staff.

4 JIM MONTEVERDE: We're just talking about where in
5 fact windows would be most reasonable, looking at this
6 diagram. But again, I'll let you the proponent decide that
7 and come in to talk to ISD. Come in to see Stephen, please?

8 GARY GILBERT: Yes. I'll just come.

9 JIM MONTEVERDE: Yep. Hold on a second. Should
10 we let John -- we have a member of the public who's raised
11 their hand before we do the continuance.

12 John, do you have a comment for us?

13 JOHN HAWKINSON: Thanks, Mr. Chair. Not specific
14 to this case, and I'm sorry I was on my phone earlier, so I
15 couldn't address it more clearly but the calendar entry for
16 this meeting, for the 6:30 meeting, has both the correct and
17 the incorrect meeting number.

18 And so I worry -- not to the same extent as
19 previously, the last time we had this problem, but I still
20 worry that a person of ordinary firmness might attempt to
21 join the meeting based on the calendar entry and fail and
22 give up. And I don't know what you should do about it,

1 other than perhaps to institute some kind of procedure so
2 this doesn't happen again in the future. Thank you.

3 JIM MONTEVERDE: Thank you. Okay. Let's
4 continue. Mr. Gilbert, if you're amenable to a continuance,
5 let me make a motion to continue this matter until --

6 STEPHEN NATOLA: April 25.

7 JIM MONTEVERDE: -- April 25. Does that give you
8 enough time to do what you need to do, Mr. Gilbert?

9 GARY GILBERT: Is that the earliest time slot?

10 JIM MONTEVERDE: Yes.

11 GARY GILBERT: And can I just go into ISD without
12 an appointment, or do I need -- just during business hours?

13 STEPHEN NATOLA: You can walk in or call.

14 JIM MONTEVERDE: Could you hear that?

15 GARY GILBERT: Yes, I do.

16 JIM MONTEVERDE: Okay. So let me make a motion to
17 continue this matter until April 25, 2024 on the condition
18 that the petitioner change the posting sign to reflect the
19 new date of April 25, 2024 and the new time of 6 p.m.

20 Also, that the petitioner sign a waiver to the
21 statutory requirements for the hearing. This waiver can be
22 obtained from Maria Pacheco or Olivia Ratay at the

1 Inspectional Services Department.

2 I ask that you sign the waiver and return it to
3 the Inspectional Services Department by a week from this
4 coming Monday. Failure to do so will de facto cause this
5 Board to give an adverse ruling on this case.

6 Also, that if there are any new submittals,
7 changes to the drawings, dimensional forms, or any
8 supporting statements that those be in our files by 5 p.m.
9 on the Monday prior to the continued meeting date.

10 On the motion to continue this matter until April
11 25, 2025, by a voice vote of the Board members: Virginia?

12 VIRGINIA KEESLER: In favor.

13 JIM MONTEVERDE: Steven?

14 STEVEN NG: In favor.

15 JIM MONTEVERDE: Bill?

16 BILL BOEHM: In favor.

17 JIM MONTEVERDE: Daniel?

18 DANIEL HIDALGO: In favor.

19 JIM MONTEVERDE: And Jim Monteverde in favor.

20 [All vote YES]

21 JIM MONTEVERDE: The matter is continued. Thank
22 you.

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GARY GILBERT: Thank you.

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(7:18 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Bill Boehm

JIM MONTEVERDE: We are going to move to BZA
257228 -- 359 Walden Street.

Is there anybody wishing to speak on Walden
Street?

LAUREN MARETT: Hi there. Yes. We're from 359
Walden Street. We're just -- our architect I think is going
to be on shortly. Just wanted to let you know if he's not
already.

STEPHEN HISERODT: Okay. I am here now. Can you
hear me?

JIM MONTEVERDE: Yep. Can you introduce yourself,
please?

STEPHEN HISERODT: Yes. This is Steve Hiserodt
from DH Architects.

And Adam or Lauren, do you want to introduce
yourselves?

LAUREN MARETT: Yes, hi. I'm Lauren Marett and
this is Adam Munnelly. And we are Cambridge residents, and

1 we are the owners of this project. Thank you for hearing
2 our case.

3 JIM MONTEVERDE: Thank you.

4 STEPHEN HISERODT: Okay. I'll just begin with a
5 brief summary. We have an existing nonconforming two-family
6 house. It is nonconforming with respect to FAR or GFA,
7 right side yard setback and front yard setback.

8 Olivia, if you could take us to the site plan on
9 A100? There we go.

10 So we can see on the right-hand side we are
11 approximately 1.7' encroaching on the side yard setback. So
12 it's a 5.7' setback currently, and the requirement is 7.5.

13 The front yard setback violation is just a small
14 corner on the left front porch, which you can see the red
15 dashed line, which denotes a setback crossing through the
16 front corner of the building.

17 And the GFA is also nonconforming.

18 So the relief we are requesting today is first
19 with an increase in nonconforming GFA. And all of this is
20 in accordance with Section 8.22.2.d, which allows an
21 increase in existing nonconforming nature of a nonconforming
22 building, provided it doesn't have a detrimental impact on

1 the neighborhood at large.

2 So the increase in area is largely on the third
3 floor. There's currently a hip roof, and there is about 360
4 square feet existing area captured on that third floor,
5 which is completely unusable. It's trapped on four sides by
6 the hip roof. Its maximum height is just over 7' and 50
7 percent of the area is between 7' and 5'.

8 So we wanted to try and get some use out of that
9 by gabling the front and rear sections of the roof to get
10 more exterior wall and light into the third-floor space, and
11 also adding two dormers: one on the right side, one on the
12 left side, which brings in natural light and makes that
13 useable for bedrooms, all with egress potential.

14 But that increases our floor area. There's also a
15 small bay on the first floor on the right-side yard setback,
16 and then a small entry added on the left driveway side yard.

17 If we go to the right-side elevation?

18 The other impact or impacting changing is we are
19 raising the peak of the roof. We have relatively shallow
20 ceiling height, so we're going to give each floor a little
21 bump of about 6" to 8" in ceiling height, which is pushing
22 the eave line and the ridge line up to the maximum of 35'.

1 The side yard setback further encroachments are
2 the dormer on the third floor, which is in line with the
3 existing exterior wall, but it's an additional element that
4 encroaches on the setback.

5 There's a slight increase in the bay on the first
6 floor, which projects about 16". So it's a very minor
7 projection, more to get definition of space inside the unit.

8 And then we have two egress doors and their entry
9 porches or access porches, which both encroach further on
10 the side yard setback. And that is really the sum total of
11 adjustments we're making that fit within the confines of
12 8.22.2.d.

13 So the -- I guess the bar is set at whether these
14 additional or increase in nonconformity is more detrimental
15 to the neighborhood. And, I mean, the impacts as far as --
16 in my estimation -- is relatively minor in terms of the
17 change or its relationship to the adjacent structures and to
18 the neighborhood at large.

19 JIM MONTEVERDE: Okay. Thank you.

20 STEPHEN HISERODT: Any questions or
21 clarifications?

22 JIM MONTEVERDE: Yep. Give me one second. Let me

1 -- we'll get there.

2 STEPHEN HISERODT: Okay.

3 JIM MONTEVERDE: Any questions from members of the
4 Board?

5 BILL BOEHM: I have an architect -- sort of a
6 Building Code question that could potentially have a zoning
7 impact, and that is does the second means of egress you're
8 proposing there in that lower elevation, is that okay to be
9 open to the air like that, or does it need to be enclosed to
10 --

11 STEPHEN HISERODT: No, it does not need to be
12 enclosed.

13 BILL BOEHM: Thank you.

14 STEVEN NG: If you could just confirm, Steve, the
15 dormer -- the length of dormer up on the third floor on each
16 side? I couldn't find the dimension there.

17 STEPHEN HISERODT: Oh, no, I don't think -- it
18 should be 12'.

19 STEVEN NG: Okay.

20 STEPHEN HISERODT: Yeah. They're under the 15'.

21 STEVEN NG: Okay. Yeah. So --

22 STEPHEN HISERODT: -- requirement.

1 STEVEN NG: Yeah, you're --

2 JIM MONTEVERDE: I assume it's 12' on the right
3 side?

4 STEPHEN HISERODT: Say that again?

5 JIM MONTEVERDE: 12' -- there are two dormers?

6 STEPHEN HISERODT: Yes.

7 STEVEN NG: Yes.

8 STEPHEN HISERODT: They're both --

9 JIM MONTEVERDE: Are they both --

10 STEPHEN HISERODT: -- equal size.

11 JIM MONTEVERDE: -- 12'?

12 STEPHEN HISERODT: But they're under the 15'
13 requirement.

14 JIM MONTEVERDE: Sorry, let me repeat that.

15 STEPHEN HISERODT: They're --

16 JIM MONTEVERDE: The width of the dormer on the
17 right side -- in the right-side setback that you're
18 requesting the relief for, that's the one that's 12' wide,
19 correct?

20 STEPHEN HISERODT: Yes.

21 JIM MONTEVERDE: And what's the other one on the
22 opposite side?

1 STEPHEN HISERODT: It is also 12'. But it is --
2 it is conforming --

3 JIM MONTEVERDE: That's fine. I've so noted that
4 on the plans in front of me. So it's part of the record.
5 Thank you.

6 STEPHEN HISERODT: Okay.

7 JIM MONTEVERDE: Any other questions from members
8 of the Board?

9 I have one question. Can you -- the front yard
10 setback, are you asking for any relief for that front yard
11 setback?

12 STEPHEN HISERODT: As long as our deck on the
13 third level does not cross into that small triangle, which
14 it won't, then we will not need any relief there.

15 JIM MONTEVERDE: Yeah. There's no relief in the
16 front yard. Do you need relief for the -- you're adding
17 window wells, correct? Three of them?

18 STEPHEN HISERODT: Window wells do not require
19 relief.

20 JIM MONTEVERDE: Yep. And they'll change the
21 building height. Is that how you get the 35'?

22 STEPHEN HISERODT: Yeah. That 35' height is based

1 on the new or the proposed average grade.

2 JIM MONTEVERDE: Okay. So thank you from that, I
3 won't mention the front yard setback again. And I think you
4 also need relief from Section 8.22.2.c really for the
5 windows up in the dormer. So we'll add that in when we come
6 to a conclusion.

7 STEPHEN HISERODT: Thanks.

8 JIM MONTEVERDE: Any other questions from members
9 of the Board? If not, I'll open it up to public comment. No
10 other commentary. I have -- let me just check. We have no
11 correspondence in the file, either for or against. So let
12 me open it up to the public.

13 Any members of the public who wish to speak should
14 now click the icon at the bottom of your Zoom screen that
15 says, "Raise hand." If you are calling in by phone, you can
16 raise your hand by pressing *9 and unmute or mute by
17 pressing *6.

18 I'll now ask Staff to unmute speakers one at a
19 time. You should begin by saying your name and address, and
20 Staff will confirm that we can hear you. After that you
21 will have up to three minutes to speak before I ask you to
22 wrap up.

1 SCOTT WALKER: Hello, this is Scott Walker from
2 359 Walden Street.

3 JIM MONTEVERDE: I'm sorry, introduce yourself
4 again?

5 SCOTT WALKER: Scott Walker, 363 --

6 JIM MONTEVERDE: Yep.

7 SCOTT WALKER: -- Walden Street.

8 JIM MONTEVERDE: Thank you.

9 SCOTT WALKER: Right next door. And I don't have
10 any problem with their plans. I think it will be an
11 improvement to a house that was getting a little run down,
12 and there's four units in our building. I think everybody
13 has looked at the plans. Nobody really expressed any
14 reservations about what they are planning to do.

15 I would just ask that, you know, if they need to
16 block our driveway or anything like that, that's -- that's
17 often going to be okay. If we just get a little heads up,
18 we can park in the street.

19 JIM MONTEVERDE: All right. Very good. Before
20 you go away, Scott, can we ask you a question --

21 SCOTT WALKER: Sure.

22 JIM MONTEVERDE: -- from our Staff specialist?

1 STEPHEN NATOLA: Did you have any trouble
2 accessing the meeting?

3 JIM MONTEVERDE: No, I did not. Okay. We're just
4 following up a comment that was made earlier. So thank you.
5 Thank you for calling in.

6 SCOTT WALKER: Sure.

7 JIM MONTEVERDE: Is there anyone else who's
8 calling in? One second, please.

9 Discussion among members of the Board, or are we
10 ready for a motion? I'll take that as ready for a motion.

11 The Chair makes a motion to grant relief from the
12 requirements of the Ordinance under Sections 5.31 -- and
13 that has to do with the side yard setback that the new
14 dormer is within. So we're looking for relief from it.
15 Also, an increase to the existing nonconforming GFA.
16 Sections 8.22.2.d for a Nonconforming Structure and
17 8.22.2.c, relief.

18 All right. Scratch that 8.22.2.c. Since that
19 wasn't advertised, we can't include that. And this is a
20 special permit. And again, the criteria for it is it
21 appears that the requirements of the ordinance cannot or
22 will not be met. Correct.

1 Traffic generated would cause congestion. No.

2 The continued operation of or the development of
3 the adjacent uses would be adversely affected. No.

4 Nuisance or hazard will be created to the
5 detriment and health, safety, or welfare. No.

6 And for other reasons, impair the integrity of the
7 district or adjoining district.

8 So it meets the criteria under 10.43 for a special
9 permit.

10 On the condition that the work proposed conform to
11 the drawings entitled "359 Walden Street," prepared by DH
12 Architects, dated December 7 -- no, December 7, 2020, is
13 that correct?

14 STEPHEN HISERODT: That is not correct. That is a
15 mistake on my part.

16 JIM MONTEVERDE: How about 11/17/22? I'm looking
17 at the elevation sheet that's up on the screen. Oh, I've
18 got the wrong -- I took these out of that.

19 STEPHEN HISERODT: Oh, yeah. I'm not -- no, it's
20 -- there are multiple dates strewn on various sheets. I'm
21 not sure how we resolve this issue.

22 JIM MONTEVERDE: Well, we are going to just --

1 it'll be recorded by the dates that are on the sheets that
2 you submitted.

3 Initialed and dated by the Chair. And further,
4 that we incorporate the supporting statements and
5 dimensional forms submitted as part of the application.

6 Further, that the special permit is granted
7 incorporating the following conditions, and that is that
8 we've had annotated a third-floor plan to indicate that both
9 dormers are 12' wide. While I would swear looking at this
10 elevation that the top one is not 12' wide, but I'll take
11 your word for it.

12 You also need to come back and ask for a special
13 permit under Section 8.22.2.c for windows, since that was --

14 STEPHEN HISERODT: Yes.

15 JIM MONTEVERDE: -- a condition in the
16 application, you need to come back and do that.

17 STEPHEN HISERODT: That is something I discussed
18 with Olivia this afternoon.

19 JIM MONTEVERDE: Yep. Okay. Board members, on a
20 voice vote, please? Bill?

21 BILL BOEHM: Bill?

22 BILL BOEHM: In favor.

1 JIM MONTEVERDE: Thank you. Steven?

2 STEVEN NG: In favor.

3 JIM MONTEVERDE: Daniel?

4 DANIEL HIDALGO: In favor.

5 JIM MONTEVERDE: Virginia?

6 VIRGINIA KEESLER: In favor.

7 JIM MONTEVERDE: And Jim Monteverde in favor.

8 [All vote YES]

9 JIM MONTEVERDE: That's five in favor. The relief
10 is granted.

11 STEPHEN HISERODT: Thank you for your time.

12 ALAN MUNNELLY: Thank you.

13 LAUREN MARETT: Thank you.

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(7:39 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Bill Boehm

JIM MONTEVERDE: Next case is BZA-258526 -- 125
Jackson Street. Is there anyone here who wishes to speak on
this case? About this case?

ASHLEY LESOLTIS: Hello? Can you hear me?

BILL BOEHM: Barely.

JIM MONTEVERDE: Hello?

ASHLEY LESOLTIS: All right. I'll speak up and
hope that helps.

JIM MONTEVERDE: Can you introduce yourself,
please?

ASHLEY LESOLTIS: Sure. I'm Ashley. I live at 9
--

JIM MONTEVERDE: I can barely hear you.

ASHLEY LESOLTIS: Oh.

JIM MONTEVERDE: Try it again.

ASHLEY LESOLTIS: I'm Ashley. Any better?

UNIDENTIFIED SPEAKER: Better.

ASHLEY LESOLTIS: All right.

1 JIM MONTEVERDE: You still sound like you're far,
2 far, far away. But give it a try.

3 ASHLEY LESOLTIS: All right. If it becomes
4 problematic, I'll get a headset. I'm Ashley. I live at 95
5 Jackson Street right now. My family and I have been here
6 for approximately five years. My wife's lived here her
7 whole life and so does our daughter.

8 And about a year ago, we purchased 125 Jackson
9 Street, which is just down the road. We've loved our
10 neighborhood, and this is our opportunity to move to a
11 single-family for the rest of our lives hopefully, because
12 we envision being in Cambridge for the rest of our lives.

13 But the apartment we're in now is a little bit
14 smaller for our growing family, and hoping to have a place
15 where we'll have an in-law suite for our family as they age.

16 The current property, as we started getting
17 estimates and having architects and engineers come through,
18 proved that to make it energy-efficient to make the basement
19 livable, to increase the second floor to a full height space
20 was going to be very cost-prohibitive to do all at once.

21 And so, the solution that we've been looking at is
22 using this group called Unity Homes out of New Hampshire,

1 and they produce the single-family structure offsite and
2 bring in panels, which are fully insulated. They create
3 near Net Zero efficiency homes, and we have a home.

4 We talked to the Historic Committee. We're trying
5 a design that is Cape style, in line with what we currently
6 have in the neighborhood.

7 The footprint itself is similar to what currently
8 exists, but given the limitations to customizing the preset
9 dimensions and the fact that these walls are going to be
10 extra thick for that additional insulation, the new building
11 is going to extend 3 and 3/8" into the total yard setback
12 requirement of 20'. So the variance we're seeking is for
13 that 3 and 3/8" on the total side yard.

14 We are proposing a shift of the house a couple
15 feet to the south of where it currently sits, but will
16 increase the north side setback by a couple of feet. It
17 decreases the south side setback by a couple of feet, but
18 both will exceed the 7.5 minimum.

19 So neither side is at the worst. It should
20 prevent additional shadow, create a little bit more space
21 around the entirety of the building.

22 And we would be proposing the removal of the

1 existing porch on the south side, which encroaches the
2 current setback. A lot of the back yard is currently paved.
3 We're looking to remove that to increase the amount of
4 permeable space.

5 Overall, not trying to change a lot about the
6 current setup, just that the new home will create this
7 variance issue with the total side yard.

8 JIM MONTEVERDE: Thank you.

9 Any questions from members of the Board? This is
10 a variance, by the way. If not, I'll start. Do you have
11 the Dimensional Form, Stephen?

12 Can you enlarge that for us?

13 STEPHEN NATOLA: Yep.

14 JIM MONTEVERDE: That's it? There we go.

15 Can you -- I'm confused by the -- in the
16 advertisement -- and I think you just mentioned with the
17 relief you're seeking, it says, "which meets each side
18 minimum setback separately, but which extends 3 and 3/8"
19 into total side yard setback requirement."

20 ASHLEY LESOLTIS: Right.

21 JIM MONTEVERDE: I'm looking at the Dimensional
22 Form. It's up on the screen. The left side, the

1 requirement is 12.5' and you're at the requested condition
2 is 10.67', correct?

3 ASHLEY LESOLTIS: So the -- that is the --

4 JIM MONTEVERDE: So the right side is fine. So is
5 the issue only on the left side?

6 ASHLEY LESOLTIS: So the left side minimum is
7 12.5' based on the total must be 20' and not that the left
8 side specifically must be 12.5.'

9 JIM MONTEVERDE: Do you follow that one, Steven?

10 STEPHEN NATOLA: Uh --

11 JIM MONTEVERDE: Sorry, I'm querying my expert
12 here, because you've lost me there.

13 ASHLEY LESOLTIS: So the side yards each should be
14 a minimum of 7.5. But --

15 JIM MONTEVERDE: Yep.

16 ASHLEY LESOLTIS: -- totaled should be 20'.

17 JIM MONTEVERDE: Yep.

18 STEPHEN NATOLA: Yeah.

19 ASHLEY LESOLTIS: And so, the issue is that the
20 side yards will each be more than 7.5', but --

21 JIM MONTEVERDE: Fine. Correct.

22 ASHLEY LESOLTIS: -- will not total 20'. They

1 will be 19. --

2 JIM MONTEVERDE: Yeah, okay.

3 ASHLEY LESOLTIS: -- 6, or --

4 JIM MONTEVERDE: So that's the --

5 ASHLEY LESOLTIS: Yep.

6 JIM MONTEVERDE: -- 3 and 3/8" you'll be off?

7 ASHLEY LESOLTIS: Yes.

8 JIM MONTEVERDE: Okay. So it's the total. Gotcha
9 thank you.

10 ASHLEY LESOLTIS: Yep.

11 JIM MONTEVERDE: Any other questions from members
12 of the Board?

13 DANIEL HIDALGO: I guess I'd just like to hear a
14 little bit more about meeting the requirements of the
15 variance, which -- you know, the requirements of the
16 substantial hardship that is linked to the property itself.

17 ASHLEY LESOLTIS: Yep. So the primary hardship is
18 the financial component in trying to establish this single-
19 family home to modern efficiency to create the living space
20 in the basement and the second floor.

21 In doing that with the existing building, there
22 are structural issues in the basement. It would need to be

1 dug up and underpinned fully around to support a full height
2 ceiling for living space, as well as to support the full
3 height second story.

4 And doing that, when we got estimates, comes
5 around to the amount that building an entirely new home was
6 going to amount to. And then building from scratch creates
7 a large cost component. It also takes a significant amount
8 of time to the neighborhood.

9 The benefit to the offsite build is that it
10 reduces the overall waste. They're going to be measuring in
11 a large interior environment. They insulate to that
12 environment. They bring in these panels and assemble the
13 exterior in the course of a week, rather than several weeks
14 to a couple of months of exterior construction.

15 So the main components are that the impact in
16 terms of the finance for trying to establish the single-
17 family and then trying to reduce the overall building impact
18 in creating that structure.

19 DANIEL HIDALGO: Okay, thank you.

20 BILL BOEHM: I have a question. Am I to
21 understand that if this home was built a few inches
22 narrower, it would be -- it would go as-of-right. Is that

1 the only?

2 ASHLEY LESOLTIS: Yep.

3 JIM MONTEVERDE: Correct.

4 BILL BOEHM: Did you consider building it a few
5 inches narrower to make it fit?

6 ASHLEY LESOLTIS: So that is unfortunately the
7 challenge with this offsite build is that the structures
8 come predimensioned. So the interior space, the exterior
9 space is all in a set amount of ratios. And so, we don't
10 have unfortunately the luxury of reducing it by a few
11 inches.

12 BILL BOEHM: That's disappointing, because --

13 ASHLEY LESOLTIS: I know.

14 BILL BOEHM: I mean, I think that the -- I think
15 what you're hearing is where's the hardship? And all of
16 your rationale for building a new house is all fine and
17 makes sense and -- but as you may know, sort of the way this
18 works is we need to, you know, kind of agree that there's a
19 hardship. So I'm -- that's what we're looking for, I think.

20 VIRGINIA KEESLER: You touched on this, but
21 perhaps you could just speak a bit more to the structural
22 integrity of the existing structure. Unless any other

1 details you would add in there.

2 ASHLEY LESOLTIS: Yeah. The current home was
3 built in the '50s. We've already gone through a process of
4 asbestos removal, knowing that was going to be an issue.
5 But the foundation itself has unlevelled over time, and the
6 basement height does not exceed the 7' for living space.

7 And so, in trying to make this an in-law apartment
8 for our family, it's going to be difficult to do that. And
9 then to create that additional basement space, plus the
10 added weight of a full-height ceiling, or not full-height
11 ceiling, increasing the ceiling height of the second story,
12 which is currently very low under the eaves, there was going
13 to need to be significant new structure and underpinning of
14 the current foundation.

15 So they essentially have to -- to keep the current
16 house, raise it, dig out the bottom of the basement floor,
17 underpin, set the interior of the floor a couple feet in
18 from the current foundation line, and then they would put in
19 new supports to create the full height second story.

20 VIRGINIA KEESLER: Thank you.

21 JIM MONTEVERDE: Thank you.

22 ASHLEY LESOLTIS: Yep.

1 JIM MONTEVERDE: Any other questions? If not, I
2 have one.

3 Stephen, can you go to the side elevation?

4 Are you familiar with the City's Dormer
5 Guidelines? That's, Ashley, that's for you.

6 ASHLEY LESOLTIS: Yes. So the way I have read
7 through the Guidelines indicates that the dormer should be
8 fine at the single-family home on a second story, and that
9 it applies when it is a multifamily home or on the third
10 floor or above.

11 JIM MONTEVERDE: Stephen, do you agree?

12 STEPHEN NATOLA: What's that?

13 ASHLEY LESOLTIS: The dormers.

14 JIM MONTEVERDE: Thank you. Oh, we can hear you
15 perfectly now. Can you say that one more time?

16 ASHLEY LESOLTIS: So for the dormers, the way I
17 read the Building Code was that for a single-family, it was
18 not necessary to have a limit to the dormer length on a
19 single-family home at the second story, and that the
20 guidelines for limiting the dormers was for multifamilies or
21 third floors and up.

22 JIM MONTEVERDE: Okay. All right. Thank you.

1 ASHLEY LESOLTIS: Yep.

2 JIM MONTEVERDE: I'm going to open it to public
3 commentary. We have one letter in the file from Charles
4 Teague, dated March 26, from 90 Jackson Street, who strongly
5 urges the Board to approve the proponent's plan. We can
6 open up to anyone else calling in.

7 Any members of the public who wish to speak should
8 now click the icon at the bottom of your Zoom screen that
9 says, "Raise hand."

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

12 I'll now ask Staff to unmute speakers one at a
13 time. You should begin by saying your name and address, and
14 Staff will then confirm that we can hear you. After that
15 you will have up to three minutes to speak before I ask you
16 to wrap up.

17 Anybody there? No? All right. No one's calling
18 in? We'll close public testimony.

19 Any discussion among members of the Board? I'll
20 speak personally about the variance and the hardship.

21 It's such a small ask. I can see my way around
22 the variance conditions, and from the discussion that the

1 proponent presented about cost of the renovation, basic cost
2 of new and having an improved condition and a new structure,
3 and the fact that the structure is limited -- not limited,
4 but comes at a predetermined width and that's what drives
5 this 3 and 3/8" overstepping into the side yard setback in
6 total, I am moving to favor this, at least to be amenable to
7 this for a variance.

8 Anyway, that's my discussion. Anybody else have
9 anything else for discussion, or can we move to a motion?

10 DANIEL HIDALGO: I guess I think it's reasonable
11 to take into account the sense of the nonconformity size.
12 It's minuscule so I --

13 JIM MONTEVERDE: Yeah.

14 DANIEL HIDALGO: -- agree.

15 JIM MONTEVERDE: Thank you. Anyone else? Bill?

16 STEVEN NG: I totally agree with both of you on
17 that.

18 JIM MONTEVERDE: All right. Thank you.

19 BILL BOEHM: Bill Boehm in agreement as well.

20 JIM MONTEVERDE: Okay. Thank you. All right.
21 Thank you. With that, we'll go to a motion.

22 The Chair makes a motion to grant relief from the

1 requirements of the Ordinance under Section 5.31. And that
2 really has to do with the total side yard setbacks and the
3 fact that the proposed building is 3 and 3/8" over the
4 required setback, and we'll grant that relief.

5 And also, for 10.30 for a variance. And it'll
6 involve -- a literal enforcement will involve a substantial
7 hardship, and I think there's also the benefit to the
8 proponent for a new structure, insulated, et cetera.

9 And the dimensional bust really has to do with a
10 premanufactured house that comes in a size that is 3 and
11 3/8" larger than you otherwise would want. So I'm prepared
12 to accept that as the rationale for the variance.

13 On the condition that the work proposed conform to
14 the drawings entitled "125 Jackson Street," prepared by
15 Unity Homes, dated July 20, 2023; initialed and dated by the
16 Chair.

17 And further, that we incorporate the supporting
18 statements and dimensional forms submitted as part of the
19 application.

20 Board members on a voice vote, please? Virginia?

21 VIRGINIA KEESLER: In favor.

22 JIM MONTEVERDE: Steven?

1 STEVEN NG: In favor.

2 JIM MONTEVERDE: Daniel?

3 DANIEL HIDALGO: In favor.

4 JIM MONTEVERDE: Bill?

5 BILL BOEHM: In favor.

6 JIM MONTEVERDE: And Jim Monteverde in favor.

7 [All vote YES]

8 JIM MONTEVERDE: That's five in favor. Variance
9 is granted.

10 ASHLEY LESOLTIS: Thank you all.

11 UNIDENTIFIED SPEAKER: Thank you.

12 JIM MONTEVERDE: You're welcome.

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2 (7:56 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Virginia

4 Keesler, Daniel Hidalgo, and Bill Boehm

5 JIM MONTEVERDE: The next case is BZA-259041 - 163
6 Allston Street.

7 Is there anyone here who wishes to speak on -- Mr.
8 Rafferty?

9 JAMES RAFFERTY: Good evening, Mr. Chair.

10 JIM MONTEVERDE: Hi there.

11 JAMES RAFFERTY: My apologies. Good evening. For
12 the record, Mr. Chair and members of the Board, James
13 Rafferty appearing on behalf of the applicant, Maryellen
14 Carvello.

15 And I believe Maryellen is also here this evening,
16 and has registered to participate. I don't know if she's
17 been recognized yet or --

18 MARYELLEN CARVELLO: Yes, hi.

19 JAMES RAFFERTY: Mr. Chair, do you know if Ms.
20 Cavello has been accepted into the meeting?

21 STEPHEN NATOLA: She's coming over.

22 MARYELLEN CARVELLO: Hi. Good evening, everyone.

1 Thank you.

2 JIM MONTEVERDE: Could you introduce yourself,
3 please?

4 JAMES RAFFERTY: Maryellen, could you introduce
5 yourself and give your address?

6 MARY ELLEN CARVELLO: Yes, I'm sorry. Maryellen
7 Carvello. I'm trying to get my camera on, so I apologize
8 for that.

9 JIM MONTEVERDE: That's all right. Could you
10 speak --

11 MARY ELLEN CARVELLO: Mary Ellen Carvello.

12 JIM MONTEVERDE: Yep.

13 MARY ELLEN CARVELLO: I am the property owner at
14 163 Allston Street.

15 JIM MONTEVERDE: Okay. Thank you.

16 JAMES RAFFERTY: Thank you. Mr. Chair, this is an
17 application for an accessory dwelling unit, pursuant to the
18 provisions of Section 4.22.1 of the Ordinance.

19 The property at 163 Allston Street contains a
20 three-family dwelling in the main structure, and there's an
21 accessory structure on the lot today, which is a garage with
22 an office above it.

1 This property was owned by Ms. Carvello's brother
2 for many years. Unfortunately, he passed away a few years
3 ago, and she inherited this property.

4 This accessory structure fits the characterization
5 in the Ordinance of an underutilized accessory building.
6 And given the way the office -- the second-floor office is
7 laid out, you can see from the floor plans that this space
8 can be converted to a dwelling unit without any alterations
9 to the dwelling, to the structure -- excuse me.

10 So the criteria in 4.22.1 requires that for an
11 accessory apartment require that the building be in
12 existence since February of 2019. That's certainly the case
13 here.

14 There's also a requirement that the dwelling unit
15 not be greater than 900 square feet, and that is the case
16 here on this floor of the accessory dwelling unit. Level 2
17 is 500 square feet and Level 1 there are -- there's an
18 additional 374 square feet that would serve as storage for
19 the unit upstairs.

20 And the requirement is that there not be more than
21 one accessory dwelling unit on the lower part. And this
22 would be the only dwelling unit on this lot.

1 So in light of that, we think that the criteria
2 are met. One of the criteria for the Board to consider an
3 application such as this is whether any exterior alterations
4 are compatible with the surrounding neighborhood.

5 As I noted earlier, there are no exterior
6 alterations associated with this conversion. The space
7 already exists, and it's simply a change to utilize it for
8 the purposes of a dwelling unit.

9 JIM MONTEVERDE: Thank you. Any questions from
10 members of the Board?

11 VIRGINIA KEESLER: This is more a question for
12 you, Jim. So under that section of the code, are we able to
13 approve this as a special permit in that it's a three-unit
14 structure building versus a single or two-family dwelling?

15 JIM MONTEVERDE: Okay, I'm -- sorry, I'm not
16 hearing you clearly enough.

17 VIRGINIA KEESLER: Oh, sorry, are you -- I was
18 just wondering for 4.22.1 since it references single-family
19 and two-family dwellings, is that still applicable, given
20 that this is a three-unit dwelling?

21 JIM MONTEVERDE: Sorry, one second.

22 JAMES RAFFERTY: Mr. Chair, I would note that

1 there is that reference in that section. This section also
2 addresses accessory buildings. This is --

3 VIRGINIA KEESLER: Oh.

4 JAMES RAFFERTY: -- and accessory dwelling unit of
5 an accessory --

6 JIM MONTEVERDE: Yep.

7 JAMES RAFFERTY: -- structure. It's not occurring
8 within the body of the house.

9 JIM MONTEVERDE: Thank you. Any other questions
10 from members of the Board?

11 BILL BOEHM: Yes. I have a question. What is the
12 -- on the Level 1, the section in front, "Area not in
13 contract" can you just explain to me how this plan works?
14 It looks like it's being created as a separate room to the
15 rear part. It appears to have no door into it?

16 JAMES RAFFERTY: Right. So the ground floor is
17 the garage presently, obviously.

18 And the idea here is that the front portion of the
19 garage is -- the ground floor is no longer going to be used
20 as a garage. The front portion of the garage would be used
21 as storage for the property owner.

22 The thinking was that the balance of the space

1 could serve as storage now and possibly, in some future
2 date, an interior staircase could be created that would
3 allow for access.

4 Since the 900 square-foot limitation would still
5 be in place, it was thought that there might be an
6 opportunity in the future to place an interior staircase
7 into that space and make it part of the accessory dwelling
8 unit.

9 So for purposes of this application, we're asking
10 that that portion of the ground floor, the garage, be
11 treated as part of the unit.

12 BILL BOEHM: But the plan shows no access to that
13 area.

14 JIM MONTEVERDE: No access, no windows, no --
15 zippo.

16 JAMES RAFFERTY: Right. That has a lot to do with
17 why we didn't identify it as living space. It would take
18 some work for that to occur. So in this case, one would
19 have to access it through the garage. There is a door.

20 There isn't an intention to do much with it now.
21 It was just the thinking that, in the future, that space
22 might be utilized. But as noted, that would require

1 extensive alteration to the building.

2 The building itself on the ground floor, it's a
3 cinder block structure. So it is not the present intention
4 to put in windows and make it living space.

5 But the thinking was if we included that square
6 footage within the 900 square-foot limit allowed for the
7 accessory dwelling unit, that opportunity might be available
8 at a later date.

9 JIM MONTEVERDE: So the way it's -- I'm sorry, any
10 other questions from members of the Board?

11 So Mr. Rafferty --

12 BILL BOEHM: Um-- yeah.

13 JIM MONTEVERDE: -- sorry, go ahead.

14 BILL BOEHM: Well, I just -- I don't quite see how
15 that's understood by say a Building Inspector. It's a large
16 space with no windows, no doors into it.

17 It's essentially a -- I don't know, you're
18 creating like a -- the equivalent of a crawl space, I
19 suppose -- something that's not to be accessed. And yet
20 it's considered part of the project. So I find it a little
21 strange and a little unresolved, but --

22 JAMES RAFFERTY: Well, I don't disagree with the

1 characterization but for the fact that it's a huge storage
2 space. It's a garage that won't accommodate a vehicle, but
3 it can accommodate a whole bunch of other things.

4 And admittedly, it is there to take advantage of
5 the provision that said that these units can be as big as
6 900 square feet. It's not Ms. Carvello's intention to fit
7 this out to make it a living space; it's storage space.

8 But I should make very clear: It is not the
9 driving factor here. And if the Board is uncomfortable with
10 that or feels that the Ordinance -- applying the Ordinance
11 in this way isn't consistent with the intent, you know, that
12 Ms. Carvello doesn't find it absolutely essential. It was
13 the case that she's not going to use the garage, the lower
14 level of the garage to park vehicles for a while.

15 So the thinking was to capture I think the total
16 here is 875 square feet. The second floor is 501. It is
17 available for habitability now, and at some point in the
18 future the opportunity would be available without having to
19 return to the Board or to amend the special permit. That's
20 the objective.

21 As I said, if Board members are uncomfortable with
22 that approach, we're happy to have the special permit apply

1 only to the second floor portion of the structure.

2 JIM MONTEVERDE: Yeah, thank you. The way it's
3 advertised doesn't seem to agree with what you're
4 describing. It's advertised as to convert portions of an
5 existing -- of the -- of existing two-story garage and
6 office. And in fact, what you're presenting is you're
7 converting all of it. So it's a bit confusing.

8 JAMES RAFFERTY: Well, the reason it says,
9 "portions," Mr. Chair -- as I said, I don't want to belabor
10 it -- if you look at the plan, it would not be the case that
11 the entire ground floor would be included, because in that
12 case we would exceed the 900 square-foot limitation.

13 So the use of the word, "portions" and plural was
14 intended to reflect the fact that a portion of the first
15 floor, the ground floor, would be -- would go with the
16 upstairs dwelling unit and the balance would just be
17 storage.

18 But as I said, it's in anticipation of perhaps
19 someday creating the living space on the lower level. That
20 -- there is no present intention to do so.

21 And if the Board feels that if that intention were
22 to become prominent that the applicant should return for an

1 amendment to the special permit or a secondary special
2 permit, I know that she's comfortable with that
3 determination as well.

4 JIM MONTEVERDE: Okay. Any other questions from
5 members of the Board?

6 BILL BOEHM: Yeah. I have another concern, which
7 is the two means of egress from that upper unit are both
8 exterior. And I guess they're both in place, so perhaps
9 both grandfathered in.

10 And I'm -- I believe and I'm not a building code
11 expert, but I believe -- you know, the idea would be to have
12 at least one of those indoors, with the idea being that in
13 say an ice storm or a weather event, there's a way to get
14 out of this thing safely. That would be a concern.

15 Again, it's a building code issue. But I just
16 want to raise it because we're -- you know, we're looking to
17 approve this thing.

18 JAMES RAFFERTY: Right. It's a valid concern.
19 And frankly, I reviewed it with the Building Department.
20 Because the exterior second -- the exterior staircases have
21 a similar concern. But this staircase is preexisting and
22 was approved. A conversion of the building was authorized

1 by a prior zoning decision.

2 BILL BOEHM: So just to wrap up my thoughts
3 because they're related, I think the right thing to do here
4 would be to install a stair down into that large space below
5 and a door outside and windows in that large space.

6 And I understand that would cost money, but -- you
7 know, if you're looking to really create a good accessory
8 apartment, it feels like what this space needs to me.

9 JIM MONTEVERDE: Mr. Rafferty, is that something
10 your proponent is interested in pursuing?

11 JAMES RAFFERTY: Well, candidly, Mr. Chair, that
12 isn't what the program contemplated is. The space itself
13 today lends itself to a rather straightforward conversion,
14 given how it's currently laid out.

15 And creating an apartment larger and the cost and
16 expense of converting the slab on the ground floor to living
17 space, that's not what the application seeks, and that's not
18 the intention.

19 So I think with all due respect, I think the
20 criteria in the special permit is satisfied by this
21 proposal. And I understand there could be improvements down
22 the road, as far as the lower level is concerned.

1 But as was noted in the -- one of the earlier
2 cases this evening, I know a question was asked of the
3 proponent in this case whether an exterior staircase was
4 permitted. And the response was that it was, except it was
5 approved under the Building Code.

6 BILL BOEHM: The difference being that had an
7 interior staircase as well. So there's one exterior and on
8 the interior.

9 JAMES RAFFERTY: Right. And I recognize that.
10 But this issue, I have had experience with this issue in the
11 past and exterior staircases are -- but I think the other
12 thing here, frankly, is this would require a building permit
13 from the Building Department.

14 And if the Building Department found that these
15 staircases weren't adequate, then an alteration suggested by
16 Mr. Boehm would have to be explored.

17 [Chair reads aloud.]

18 JIM MONTEVERDE: Let me just read it. Sorry, give
19 me one moment, please.

20 [Pause]

21 JIM MONTEVERDE: All right. Sorry for the delay.
22 I've been chatting with our expert. We're just kicking

1 around, Mr. Rafferty; it's the section 4.22 and then 4.22.1
2 and that most of the references in those sections deal with
3 a single- or two-family dwelling, and what you're talking
4 about is a three-family with an accessory building on the
5 lot. Is that correct?

6 JAMES RAFFERTY: Yes. Yes, that's correct.

7 JIM MONTEVERDE: So it doesn't seem like the
8 granting relief for 4.22, is that -- do you really need
9 relief from it? Or is that the relief you're seeking, that
10 it's not a one- or two-family dwelling, it's a three-

11 JAMES RAFFERTY: Well, it -- the one- or two-
12 family dwelling relies upon the special permit, because
13 usually there's an issue with the lot area per dwelling
14 unit. This is a three-family in a Residence C district that
15 -- three-family is an allowed use in that district. So it
16 -- so in any respects, that's correct. The relief -- the
17 special permit relief that a one-or two-family would have to
18 rely upon isn't necessary in this case.

19 But the accessory dwelling unit -- the accessory
20 structures, I do think the conversion of this to a dwelling
21 unit as an accessory is necessary because the lot cannot
22 accommodate four dwelling units under the lot area per

1 dwelling unit restriction in this zoning district. But
2 that's why we're pursuing under 4.22.

3 JIM MONTEVERDE: Okay. Thank you.

4 JAMES RAFFERTY: I see though too, I apologize,
5 Ms. Carvello has texted me that there are in fact two
6 windows and two doors on the ground floor of this structure.
7 I think there are two doors and two windows on the first
8 floor. I don't see them in the photographs, but maybe Ms.
9 Carvello could speak.

10 MARYELLEN CARVELLO: Hi. I'm sorry again for my
11 camera is not working. So the -- I understand that the plan
12 that shows the first level does not show that there are two
13 windows on the first floor, because we were really focused
14 really on the second floor as the Accessory Use.

15 That being said, hoping to maybe get some storage
16 and, you know, potentially as Attorney Rafferty said, in the
17 future or down the road a little bit, maybe the room for a
18 staircase, an internal -- interior staircase to the second
19 floor.

20 There are two windows on either side. There is a
21 door you can see on the right-hand side of the first floor
22 sort of in the blue shaded area. That is a full door into

1 the first floor.

2 And then the front, there's another door in the
3 back corner of the left-hand side. And then there is in the
4 front a full garage.

5 So there are lots of windows and lots of doors on
6 the first floor level. And I think we really didn't focus
7 on the fact that they're not shown in this again because we
8 were more focused on the use of the second-floor level for
9 accessory use purposes at this time.

10 JIM MONTEVERDE: Thank you.

11 BILL BOEHM: Maryellen, did you say there's a full
12 garage in front?

13 MARYELLEN CARVELLO: Garage door.

14 JAMES RAFFERTY: An overhead garage door.

15 BILL BOEHM: Garage door, okay.

16 MARYELLEN CARVELLO: Correct.

17 JIM MONTEVERDE: Thank you.

18 MARYELLEN CARVELLO: Of course.

19 JIM MONTEVERDE: Any other questions from members
20 of the Board? I find no correspondence in our file from the
21 public, so I will open it to public comment.

22 Any members of the public who wish to speak should

1 now click the icon at the bottom of your Zoom screen that
2 says, "Raise hand."

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

5 I'll now ask Staff to unmute the speakers one at a
6 time. You should begin by saying your name and address, and
7 Staff will then confirm that we can hear you. After that
8 you will have up to three minutes to speak before I ask you
9 to wrap up.

10 STEPHEN NATOLA: JDA?

11 JAIME D'ALMEIDA: Hello, Jaime D'Almeida, 156
12 Hamilton Street.

13 JIM MONTEVERDE: Yup. Thank you. Go ahead.

14 JAIME D'ALMEIDA: I own the property directly
15 behind the unit, the building. And I just -- I understand
16 that that access has been grandfathered in, but just for
17 some history here, there have been people living in that
18 unit previously, and some stairs went up without any
19 discussion that I was aware of.

20 I applaud Maryellen for coming forward and doing
21 this the right way. So I want to make sure that she gets
22 commended for that.

1 I just want to make sure I just want to make sure
2 I understand what the process is here for the access to --
3 or what she's actually -- what she needs to get a variance
4 for. It's not clear to me what exactly is -- based on the
5 questions I've heard from the Board, sort of what needs to
6 happen here.

7 JIM MONTEVERDE: Sorry, are you directing that
8 question at the Board?

9 JAIME D'ALMEIDA: Yeah, I guess I am. It's not --
10 so that the unit is -- I guess what I'm trying to understand
11 is what is the process for sort of further changes to the
12 building. Because you're -- my understanding was you only
13 -- that she's only asking to convert the use of this
14 property.

15 But there are access -- there's access doorways
16 that I think are contemplating being changed. I just don't
17 know if that's part of this process or not, or if that's
18 part of another process.

19 JIM MONTEVERDE: Yeah. That's part of the
20 discussion we as a Board have to have when we're done with
21 the public commentary because in essence, we can only take
22 action on what's presented to us. And that's --

1 JAIME D'ALMEIDA: Understood.

2 JIM MONTEVERDE: -- from what I'm seeing is
3 improvements on the second level only, and the first level,
4 the storage and the toned-out area.

5 So I think -- again, this is me speaking
6 personally, we haven't come to this yet, but it may require
7 the proponent to come back once they want to use that other
8 portion of the ground floor.

9 JAIME D'ALMEIDA: Okay. I -- that's very helpful.

10 JIM MONTEVERDE: That's --

11 JAIME D'ALMEIDA: The question that I'm -- the
12 place it is coming from that I have, and I know that one of
13 my neighbors has a similar question is, you know, what's
14 going to be the main access to this building? Right?

15 What's going to be the main, the front door?
16 Because there are two iron -- sort of iron access. One is a
17 spiral staircase, and the other is sort of a --

18 JIM MONTEVERDE: Yep.

19 JAIME D'ALMEIDA: -- a metal staircase. And I
20 just want to know what the plan is for that; is that part of
21 this process or if that's -- again, another hearing?

22 JIM MONTEVERDE: No, that's shown on the plan, and

1 that's what we have to assume is the method to access the
2 second floor, both those two external stairs -- exterior
3 stairs.

4 JAIME D'ALMEIDA: Okay.

5 JIM MONTEVERDE: All right? All right, thank you.
6 Anyone else?

7 STEPHEN NATOLA: No.

8 JIM MONTEVERDE: That's it for public commentary.
9 I'll close public testimony. Discussion among the members
10 of the Board? If not, let me jump in.

11 I'm perplexed by what the plans submitted for the
12 ground floor don't show. And I could see proceeding with
13 the improvements on the second floor, only.

14 I could do two paths. I could do only the second
15 floor only, conditioned that the improvements on the first
16 floor not happen, or they have to come back for another
17 relief to do those, that's one way.

18 And the second is to ask the proponent to continue
19 and to modify the plans to correct them on the ground floor
20 to what the current condition is, and to show what they
21 intend to do with that ground floor, if they intend to make
22 that part of the second floor unit. To me, that's the two

1 paths. And maybe that's not correct.

2 But any other member of the Board have a comment
3 or discussion?

4 STEVEN NG: This is Steve Ng --

5 JAMES RAFFERTY: Would it help the deliberation --

6 JIM MONTEVERDE: Mr. Rafferty, just a second.

7 JAMES RAFFERTY: Okay.

8 JIM MONTEVERDE: Give us one second.

9 STEVEN NG: I think that's up to the applicant
10 what they'd like to do. But I agree with the two approaches
11 you propose.

12 JAMES RAFFERTY: I was only offering, Mr. Chair,
13 we would be happy to withdraw the application as it applies
14 to the ground floor. I understand the concern expressed by
15 you. As I noted earlier, the thinking was at some future
16 date. But it is not depicted accurately on the plan. And
17 there is no present intention in the near term to use that
18 as living space.

19 So I think an attempt to include it at this point
20 was probably a mistake on our part. I would ask the Board
21 only to focus its attention on what's depicted on the plan,
22 which is living space and defining the apartment as the area

1 on the second floor of the accessory building.

2 JIM MONTEVERDE: Okay. Thank you. Any other
3 discussions from members of the Board?

4 I'll phrase the motion that way; that this is
5 specifically for the improvements shown on the second floor,
6 and it does not include any improvements on the ground
7 floor, which would be future improvements that the proponent
8 would have to come back for other relief.

9 So we're ready for a motion.

10 BILL BOEHM: Sorry, Jim, I'm going to jump in here
11 one more time. I am comfortable with that approach. But I
12 feel like there's still ambiguity in the language in 4.22
13 about accessory apartments, where it specifically says,
14 "single and two-family dwellings" --

15

16 JIM MONTEVERDE: Okay.

17 STEPHEN HISERODT: -- and I don't follow exactly
18 Mr. Rafferty's logic. So I feel like if we're approving
19 this on what is not a single- or two-family dwelling,
20 although that's the way it's stated in the Zoning Code, we
21 need to either correct that language or acknowledge
22 ourselves that it doesn't matter, because it says, "in all

1 districts." So it seems like conflicting language, and we
2 should be clear on that.

3 JIM MONTEVERDE: Yep. I think we can wordsmith
4 around it. Steven, did you have a comment?

5 STEVEN NG: Nope.

6 JIM MONTEVERDE: No, I'm sorry Stephen -- we're
7 having further debate about the -- just amongst us two here
8 -- about the accessory dwelling unit and which section it
9 applies to and whether this should be a variance or whether
10 this should be an accessory apartment. For a simple
11 proposal, this is getting awful convoluted.

12 So, members of the Board, are you comfortable
13 moving forward with a motion to grant a relief, special
14 permit, on the condition that it's only for the improvements
15 shown on the second floor and nothing else, and anything
16 else would have to be by a separate request for relief?

17 DANIEL HIDALGO: I'm comfortable with that.

18 JIM MONTEVERDE: Okay.

19 BILL BOEHM: I am too.

20 STEVEN NG: Also in support of that.

21 JIM MONTEVERDE: Thank you. Motion: The Chair
22 makes a motion to grant relief from the requirements of the

1 Ordinance under Sections 10.22 for Accessory Apartment --
2 10, did I say 10? -- 4.22, 4.22.1, the relief there is that
3 that section specifically talks about and -- or seems to
4 talk about an accessory building for a one- or two-family
5 dwelling and this is three-. We're accepting that change.

6 And Section 4.21 for Accessory Use and a special
7 permit, the criteria under 10.43 where it appears that the
8 requirements of the ordinance cannot or will not be met.

9 Correct.

10 Traffic generated would cause congestion. Which
11 it would not.

12 The continued operation of or the development of
13 the adjacent uses would be adversely affected. It will not.

14 Nuisance or hazard will be created to the
15 detriment of the health, safety, or welfare. It will not.

16 And for other reasons, the proposed use would
17 impair the integrity of the district or adjoining district,
18 which it will not.

19 So we find that it complies with all the criteria
20 of Section 10.43 for a special permit.

21 On the condition that this action only applies to
22 the improvement shown on the second floor, and not to any

1 improvements on the ground floor, which would need to be a
2 future application for relief. On the condition that the
3 work proposed conform to the drawings entitled "163 Allston
4 Street, Sheet A102," by DRT Architects, dated February 14,
5 2024. Again, on the condition that it's only the second-
6 floor work that's being relieved here or relief being
7 granted for and not the ground floor -- initialed and dated
8 by the Chair.

9 And further, that we incorporate the supporting
10 statements and dimensional forms submitted as part of this
11 application.

12 On a voice vote, please? Virginia?

13 VIRGINIA KEESLER: In favor.

14 JIM MONTEVERDE: Daniel?

15 DANIEL HIDALGO: In favor.

16 JIM MONTEVERDE: Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: And Jim Monteverde in favor.

21 [All vote YES]

22 JIM MONTEVERDE: That's five in favor. The relief

1 is granted.

2 COLLECTIVE: Thank you.

3 JAMES RAFFERTY: Thank you, members of the Board.

4 Have a good evening. Goodnight.

5 MARYELLEN CARVELLO: Thank you very much.

6 JIM MONTEVERDE: Thank you.

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(7:29 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia
Keesler, Daniel Hidalgo, and Bill Boehm

JIM MONTEVERDE: Next case is BZA-258992 -- 31
Bowdoin Street. From this, we have correspondence that the
homeowners request they are going to withdraw without
prejudice. So on a voice vote to accept the withdrawal
without prejudice; Virginia?

VIRGINIA KEESLER: In favor.

JIM MONTEVERDE: Steven?

STEVEN NG: In favor.

JIM MONTEVERDE: Daniel?

DANIEL HIDALGO: In favor.

JIM MONTEVERDE: Bill?

BILL BOEHM: In favor.

JIM MONTEVERDE: And Jim Monteverde in favor.

[All vote YES]

JIM MONTEVERDE: This matter is withdrawn without
prejudice.

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(8:30 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Virginia

Keesler, Daniel Hidalgo, and Bill Boehm

JIM MONTEVERDE: BZA-258983 -- 75 Dudley Street.

We'd like to continue this. I'd like to suggest that we continue this case. We're having some issues with the way things were advertised, and public being able to call in.

And since it's a variance, we'd like to continue this.

Is the proponent on hand?

MARK SEREDA: Hello?

JIM MONTEVERDE: Veronique? No. I am the architect -- Mark Sereda from O'Sullivan Architects, 606 --

JIM MONTEVERDE: Yep.

MARK SEREDA: -- Main Street.

JIM MONTEVERDE: Did you hear my introduction, Mark?

MARK SEREDA: What's that?

JIM MONTEVERDE: Did you hear my introduction?

MARK SEREDA: That --

JIM MONTEVERDE: I'd like to continue; I suggest we continue this case.

1 MARK SEREDA: Yes, okay. Yes, that's fine. You
2 want to continue it?

3 JIM MONTEVERDE: Yep.

4 MARK SEREDA: Okay, very good.

5 JIM MONTEVERDE: May 9?

6 STEPHEN NATOLA: Yeah.

7 JIM MONTEVERDE: Can you do May 9, does that work
8 for you, Mark?

9 MARK SEREDA: Yes. Yes, that would be fine.

10 JIM MONTEVERDE: Okay.

11 STEPHEN NATOLA: Thank you.

12 JIM MONTEVERDE: Members of the Board? May 9,
13 okay? Well, this is a case not heard, right?

14 STEPHEN NATOLA: Yeah.

15 JIM MONTEVERDE: Don't worry about it. All right.

16 MARK SEREDA: All right. Thank you.

17 JIM MONTEVERDE: So let me make a motion to
18 continue this matter to May 9, 2024, on the condition that
19 the petitioner change the posting sign to reflect the new
20 date of May 9, 2024, and the new time of 6 p.m.

21 Also, that the petitioner sign a waiver to the
22 statutory requirements for the hearing. This waiver can be

1 obtained from Maria Pacheco or Olivia Ratay at the
2 Inspectional Services Department.

3 I ask that you sign the waiver and return it to
4 the Inspectional Services Department by a week from this
5 coming Monday. Failure to do so will de facto cause this
6 Board to give an adverse ruling on this case.

7 Also, that if there are any new submittals,
8 changes to the drawings, dimensional forms, or any
9 supporting statement that those be in our files by 5 p.m. on
10 the Monday prior to the continued meeting date.

11 On the motion to continue this matter until May 9,
12 2024, by a voice vote of the Board members, Virginia?

13 VIRGINIA KEESLER: In favor.

14 JIM MONTEVERDE: Thank you. Daniel?

15 DANIEL HIDALGO: In favor.

16 JIM MONTEVERDE: Thank you. Steven?

17 STEVEN NG: In favor.

18 JIM MONTEVERDE: Thank you. Bill?

19 BILL BOEHM: In favor.

20 JIM MONTEVERDE: Thank you. And Jim Monteverde in
21 favor.

22 [All vote YES]

1 JIM MONTEVERDE: The matter is continued. Thank
2 you.

3 MARK SEREDA: All right. Thank you.

4 JIM MONTEVERDE: And Board members, that's a wrap.
5 Thank you for your help.

6 STEVEN NG: Thank you. Goodnight, everybody.

7 DANIEL HIDALGO: Goodnight.

8 [08:36 p.m. End of Proceedings]

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CERTIFICATE

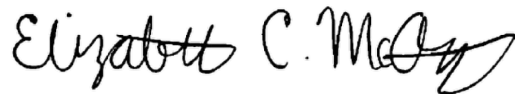
Commonwealth of Massachusetts

Middlesex, ss.

I, Elizabeth McAvoy, Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that the above transcript is a true record, to the best of my ability, of the proceedings.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

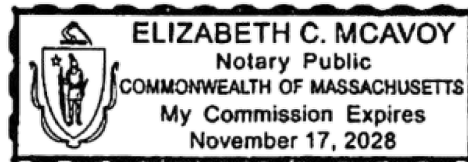
In witness whereof, I have hereunto set my hand this 23rd day of April 2024.



Notary Public

My commission expires:

November 17, 2028



A	accurate 19:10 19:13	69:11	allow 11:4,15 12:1 20:14 55:19 98:3	112:22 114:10 115:1
A100 67:9	accurately 19:9 112:16	admittedly 100:4	allowed 11:11 14:8 27:3 99:6 105:15	apartments 54:18 56:3,8 59:21 113:13
A101 58:12	acknowledge 113:21	adopted 3:10 29:19	allowing 11:9 15:21 16:19 27:11,14 59:22 60:19	apologies 93:11
A102 116:4	action 109:22 115:21 123:9 123:11	adverse 47:3 57:7 64:5 121:6	allows 67:20	apologize 18:4 23:20 94:7 106:4
ability 123:7	activities 29:18	adversely 51:22 76:3 115:13	Allston 2:12 93:6 94:14,19 116:3	Appeal 1:1 3:8 3:13
able 7:7,15 11:4 49:7 96:12 119:8	Acts 3:10	advertised 75:19 101:3,4 119:8	aloud 104:17	appear 58:19
absolutely 56:19 100:12	actual 55:8	advertisement 82:16	Alright 57:10	appearing 93:13
abundance 39:6	Adam 48:8,9,10 53:5 66:19,22	affect 23:10 37:21	alter 19:11	appears 51:16 75:21 97:15 115:7
abuts 23:3 35:11	add 31:8 33:4,21 36:19 48:14 59:12 73:5 87:1	Affirms 41:14	alteration 23:4 99:1 104:15	applaud 108:20
abutter 8:7,18 8:21 9:1	adding 50:3 68:11 72:16	afoot 28:21	alterations 95:8 96:3,6	applicable 96:19
abutters 8:1,16 10:14	addition 8:6 14:10 16:14 37:17	afternoon 77:18	altered 23:5	applicant 93:13 101:22 112:9
abutting 13:15 49:17	additional 14:11 33:20 59:22 69:3,14 81:10 81:20 87:9 95:18	Agate 1:9 3:6 4:13,14 6:4 20:12 21:21 26:7,21 27:22 32:5 40:8 41:14 42:7,13	ambiguity 113:12	application 52:14 55:22 56:16 59:2,5 77:5,16 91:19 94:17 96:3 98:9 103:17 112:13 116:2 116:11
accept 91:12 118:8	address 6:17 7:4 7:16 10:11,14 13:2 19:7 24:22 34:21 48:11 51:2 60:11 62:15 73:19 89:13 94:5 108:6	age 80:15	amenable 59:21 63:4 90:6	applicants 3:18
acceptable 23:5 23:6 41:3	addresses 97:2	Agenda 2:7 5:2 43:6,11 45:10	amend 100:19	applied 54:16 60:1
accepted 93:20	adds 17:22	ago 44:3 80:8 95:3	amendment 55:4 102:1	applies 88:9 112:13 114:9 115:21
accepting 115:5	adequate 104:15	agree 28:6 29:5 31:10 40:6 59:20 60:15 86:18 88:11 90:14,16 101:3 112:10	amount 18:8 60:13 82:3 85:5,6,7 86:9	apply 100:22
access 51:19 69:9 98:3,12 98:14,19 108:16 109:2 109:15,15 110:14,16 111:1	adjacent 19:2 51:22 69:17 76:3 115:13	agreeable 35:18	annotated 77:8	applying 48:14 100:10
accessed 99:19	adjoining 52:4 76:7 115:17	agreement 90:19	answer 9:19 16:21 40:18	appointment 63:12
accessing 75:2	adjustments	ahead 33:5 35:9 39:1 43:9 58:9 99:13 108:13	anticipation 101:18	appreciate 35:22 39:18 61:19,20
accessory 54:18 55:9 56:2,8,18 57:22,22 59:21 94:17,21 95:4 95:5,11,16,21 97:2,4,5 98:7 99:7 103:7 105:4,19,19,21 106:14 107:9 113:1,13 114:8 114:10 115:1,4 115:6		air 70:9	anybody 25:4 40:1 66:7 89:17 90:8	approach 100:22 113:11
accommodate 100:2,3 105:22		ALAN 78:12	anymore 22:2 42:8	approaches 112:10
account 90:11		align 39:8	Anyway 43:16 90:8	appropriate 15:20 40:18
		aligned 21:8	apartment 55:9 56:18 80:13 87:7 95:11 103:8,15	

<p>approve 23:13 38:1 58:17 89:5 96:13 102:17 approved 3:11 60:22 102:22 104:5 approving 113:18 approximately 22:15 24:6,7 67:11 80:6 April 46:8,13,15 46:17 47:8 63:6,7,17,19 64:10 123:13 architect 66:10 70:5 119:13 architects 48:11 52:10 66:18 76:12 80:17 116:4 119:13 architectural 39:4 architecture 10:11,17 38:13 area 14:9,9,10 14:16 21:1,8 21:13 33:20,20 36:10,12 59:18 68:2,4,7,14 97:12 98:13 105:13,22 106:22 110:4 112:22 areas 49:20 arguments 16:10 ARM 6:10 Article 18:13 as-of-right 85:22 asbestos 87:4 Ashley 79:8,11 79:15,15,18,20 79:20,22 80:3 80:4 82:20 83:3,6,13,16</p>	<p>83:19,22 84:3 84:5,7,10,17 86:2,6,13 87:2 87:22 88:5,6 88:13,16 89:1 92:10 asked 14:19 34:7,7 104:2 asking 4:5 15:18 58:21 72:10 98:9 109:13 assemble 85:12 Assist 26:18 associated 96:6 assume 41:8 71:2 111:1 attempt 35:18 62:20 112:19 attendance 4:6 attention 25:15 29:13,22 112:21 attic 14:9 attorney 6:16 106:16 audible 4:6 audio 3:14 23:22 authorized 3:12 102:22 available 16:20 99:7 100:17,18 Avenue 1:5 2:5 22:11,14 23:3 23:5 25:13 35:5,7 36:9 37:9,16 38:6 38:11,12 43:18 avenues 15:9 average 73:1 Avoid 29:14 aware 15:7 16:6 57:8 108:19 awful 114:11</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 5:1 11:11 11:16 12:3,5 12:11 13:6</p>	<p>19:11 20:5 23:3 26:18 29:8 30:21 32:4 35:11 37:13 40:14 43:10 45:10 54:21 55:22 59:16 60:2,10 77:12,16 82:2 107:3 110:7 111:16 113:8 backing 37:15 balance 97:22 101:16 balconies 12:4 20:5 balcony 8:15 12:6 13:5 bar 69:13 bare 21:16 barely 79:9,17 barrier 31:17 based 7:15 15:2 16:3 18:12 21:3 29:3 32:10 55:11 62:21 72:22 83:7 109:4 basement 14:12 14:14 17:10 61:11 80:18 84:20,22 87:6 87:9,16 basic 90:1 basically 24:5 28:20 32:18 basis 30:8 bathroom 11:1 11:3 21:8 bathrooms 49:4 bay 68:15 69:5 Bear 6:13 beautiful 10:16 27:15 beautifully 38:13 bedroom 11:6 bedrooms 49:4</p>	<p>68:13 beg 56:14 beginning 35:12 50:3 behalf 6:10,18 93:13 belabor 101:9 believe 7:15,22 10:19 14:15 18:12 20:20 21:3,9,22 33:8 33:15 34:1 45:6 46:6,9 54:20 55:19 56:16,17 57:6 57:21 58:22 59:3 93:15 102:10,11 belongs 27:16 benefit 85:9 91:7 best 123:6 better 79:20,21 beyond 37:19 big 29:20 100:5 Bill 4:15,16,20 18:20 19:18 20:8 21:22 26:12 29:5 31:11 41:19,20 42:15,17 43:4 44:13,15,22 45:1 46:4 47:15,16 48:4 52:21,22 54:4 58:8,9,10,16 59:6,15 60:6,9 60:21 61:10 62:2 64:15,16 66:4 70:5,13 77:20,21,21,22 79:4,9 85:20 86:4,12,14 90:15,19,19 92:4,5 93:4 97:11 98:12 99:12,14 102:6 103:2 104:6</p>	<p>107:11,15 113:10 114:19 116:18,19 118:4,15,16 119:4 121:18 121:19 Bill's 60:15 bit 28:15 80:13 81:20 84:14 86:21 101:7 106:17 block 74:16 99:3 blue 106:22 Board 1:1 3:8 3:13,18 4:5 6:15,20,20 7:1 7:3,6,14,21 9:5 9:18,20,22 10:10 14:21 15:6,17 16:5 16:18,20 17:1 18:19 20:11 22:5 26:4,11 28:2 29:10,19 31:3,6 32:2 34:1,7 36:2 38:1,16 39:15 41:1,3,4 47:3,9 48:10 50:14 51:9 57:14 58:7 60:18 64:5,11 70:4 72:8 73:9 75:9 77:19 82:9 84:12 89:5,19 91:20 93:12 96:2,10 97:10 99:10 100:9,19 100:21 101:21 102:5 107:20 109:5,8,20 111:10 112:2 112:20 113:3 114:12 117:3 120:12 121:6 121:12 122:4 Board's 8:10 25:15 33:6,15</p>
--	--	---	---	---

<p>34:4,6 body 97:8 Boehm 1:9 3:5 4:15,16 6:4 18:20 19:18 20:8 21:22 26:12 29:5 41:20 42:15 43:4 44:13,15 45:1 46:4 47:16 48:4 52:22 54:4 58:8,10,16 59:6,15 60:6,9 60:21 61:10 62:2 64:16 66:4 70:5,13 77:21,22 79:4 79:9 85:20 86:4,12,14 90:19,19 92:5 93:4 97:11 98:12 99:12,14 102:6 103:2 104:6,16 107:11,15 113:10 114:19 116:19 118:4 118:16 119:4 121:19 Boston 6:17 bottom 23:18 24:17 34:16 50:19 73:14 87:16 89:8 108:1 Bowdoin 2:13 118:6 Brendan 39:16 brief 9:21 67:5 briefly 8:9 14:6 27:20 bring 9:15 32:3 50:6 58:12 81:2 85:12 bringing 21:11 21:17 brings 16:14</p>	<p>55:10 68:12 broadcast 3:15 brother 95:1 Brown 48:11 build 85:9 86:7 building 8:12,14 11:12,17,19 12:5 13:6 20:17,20 24:6 28:7 49:17 54:21 58:16 59:5,16 67:16 67:22 70:6 72:21 74:12 81:10,21 84:21 85:5,6,17 86:4 86:16 88:17 91:3 95:5,11 96:14 99:1,2 99:15 102:10 102:15,19,22 104:5,12,13,14 105:4 108:15 109:12 110:14 113:1 115:4 buildings 28:11 29:7 97:2 built 85:21 87:3 bump 68:21 bunch 100:3 business 6:17 10:11 48:11 55:18 63:12 businesses 55:20 bust 91:9 busy 55:17 56:19 Bye 42:13,14,15 BZA 4:2 41:12 43:6,19 46:5 48:7 66:5 BZA-159246 2:5 43:11 BZA-251115 2:3 6:6 BZA-257228 2:10 BZA-257728 2:7</p>	<p>BZA-258026 2:8 BZA-258049 2:9 BZA-258526 2:11 79:5 BZA-258983 2:14 119:5 BZA-258992 2:13 118:5 BZA-259041 2:12 93:5</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>C 3:1 55:18 105:14 cable 3:15 calendar 62:15 62:21 call 3:20 6:5 25:15 34:14 63:13 119:8 called 55:4 80:22 calling 24:19 25:4,20 26:13 34:18 39:10 50:20 73:15 75:5,8 89:6,10 89:17 108:3 Cambridge 1:2 1:6 3:8,13,16 22:2 29:19 33:9 52:9 56:18 66:22 80:12 camera 94:7 106:11 Campen 24:1,4 candidly 103:11 Cape 81:5 capture 100:15 captured 68:4 car 12:17 37:8 care 10:13 Carol 1:9 3:6 4:13,14,21 6:4 20:12 21:21 26:7,20,21 27:22 28:1,7</p>	<p>32:5 38:6 40:8 41:13,14 42:7 42:12,13,14,15 44:12 carport 35:12 35:15 cars 23:11 37:2 Carvello 93:14 93:18,22 94:6 94:7,11,11,13 100:12 106:5,9 106:10 107:13 107:16,18 117:5 Carvello's 95:1 100:6 case 2:2 6:5,6 27:1 28:15 33:19 39:21 41:12 43:5,19 46:8 47:3 48:5 56:15 60:21 62:14 64:5 67:2 79:5,7,7 93:5 95:12,15 98:18 100:13 101:10,12 104:3 105:18 118:5 119:7,22 120:13 121:6 cases 2:3 28:10 28:13 104:2 Cashdan 38:20 38:21,21 39:2 cause 47:2 51:20 64:4 76:1 115:10 121:5 causes 49:10 causing 17:9 Cavello 93:20 ceiling 68:20,21 85:2 87:10,11 87:11 cents 31:8 certainly 15:11 15:14,14 16:10 16:13,15 21:4 21:18 95:12</p>	<p>CERTIFICA... 123:1 certification 14:15 certify 123:5,8 cetera 32:16 91:8 Chair 1:7 3:9 8:22 34:12 40:22 43:17 51:11 52:11 62:13 75:11 77:3 90:22 91:16 93:9,12 93:19 94:16 96:22 101:9 103:11 104:17 112:12 114:21 116:8 Chairman 6:9 6:13,15,19 7:9 8:9 9:17 10:9 14:5 23:20 27:21 33:2 40:11,20 chairs 13:20 challenge 86:7 challenging 15:15 chance 9:2 change 12:16 19:4,19 20:1,4 27:6 32:21 40:15 46:16 63:18 69:17 72:20 82:5 96:7 115:5 120:19 changed 24:7 109:16 changes 8:4 15:18 16:20 35:20 47:5 64:7 109:11 121:8 changing 16:9 16:12 27:9 68:18</p>
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Channel 3:15	closer 20:3	22:16 30:16	38:8	considered
Chapter 3:10	closing 23:12	comments 7:2,5	concludes 9:20	27:12 99:20
character 10:15	code 9:16 15:15	7:5,7,11,17	conclusion	considering
characteristics	16:15 21:19	26:14 29:4	55:10 73:6	27:2 38:17
10:16 15:3,13	22:1 28:8	34:14 61:3,9	concur 31:10	consistent
characterizati...	33:10 70:6	61:20	57:14	100:11
95:4 100:1	88:17 96:12	commercial	concurrence 7:1	consists 22:14
Charles 89:3	102:10,15	57:5	condition 16:4	constraints
chat 28:4	104:5 113:20	commission	32:9,15 46:15	15:10
chatting 104:22	COLLECTIVE	123:17	52:8 63:17	construction
check 73:10	117:2	Committee 81:4	76:10 77:15	22:20 55:2
chief 7:16	color 33:18	Commonwealth	83:1 90:2	85:14
child 56:17	come 11:5,9	123:2,5	91:13 111:20	containing 24:6
chime 38:15	12:1 30:18	community	114:14 115:21	contains 94:19
cinder 99:3	40:14 55:22	49:11	116:2,5 120:18	contemplated
Circle 43:12	59:11 60:2,10	compatible 96:4	conditioned	103:12
circumstances	62:7,7,8 73:5	complaints 19:9	111:15	contemplating
15:10 32:14	77:12,16 80:17	completely	conditions 15:1	109:16
city 1:2,11 3:12	86:8 110:6,7	11:22 68:5	15:11 16:1,7	continuance
28:9,22 30:1,2	111:16 113:8	compliance 9:15	21:14 31:4	46:7 47:19
30:4 33:10	comes 26:18	21:11,18	77:7 89:22	60:5,9 61:18
59:21	34:2 61:11	compliant 14:13	confines 69:11	62:11 63:4
City's 4:2 54:22	85:4 90:4	16:14	confirm 25:1	continue 46:14
88:4	91:10	complies 115:19	34:22 40:19	47:8 63:4,5,17
clarification	comfortable	comply 15:2	51:3 70:14	64:10 111:18
21:22	28:13 102:2	component	73:20 89:14	119:6,7,9,21
clarifications	113:11 114:12	21:20 84:18	108:7	119:22 120:2
69:21	114:17	85:7	conflicting	120:18 121:11
clarified 18:6	coming 5:1	components	114:1	continued 2:3
classic 55:14	23:11 31:22	85:15	conform 52:8	6:6 16:8 43:11
clear 27:1 30:2	37:2,2 47:2	concentration	76:10 91:13	46:6,13 47:7
33:3 100:8	64:4 93:21	29:15	116:3	51:21 64:9,21
109:4 114:2	108:20 110:12	concern 22:18	conforming	76:2 115:12
clearly 62:15	121:5	22:19 28:16	16:13 72:2	121:10 122:1
96:16	commended	31:11 59:15	confused 82:15	continues 9:1
click 23:17	108:22	60:15 102:6,14	confusing 101:7	contract 97:13
24:17 34:15	comment 3:22	102:18,21	confusion 45:10	contrary 16:15
50:19 73:14	4:1 17:15	112:14	congestion	conversation
89:8 108:1	30:19 50:15,17	concerned 12:12	51:20 76:1	33:7
client 7:14 40:17	61:10 62:12	22:22 39:3	115:10	conversion
41:7	73:9 75:4	58:13 103:22	connect 35:5,7	22:13 96:6
clients 7:10	107:21 112:2	concerning 16:2	consider 27:3	102:22 103:13
close 19:15	114:4	54:17	34:7,8 41:1	105:20
26:10,15 37:2	commentary	concerns 6:21	55:21 60:19	convert 101:4
39:14 51:8	22:7 23:16	7:16 8:10 9:4	86:4 96:2	109:13
59:12 89:18	73:10 89:3	10:14 11:13	consideration	converted 95:8
111:9	109:21 111:8	13:2,17 22:13	29:18 33:13	converting 28:7
closed 11:7	commenting	22:19 36:1	60:3	28:11 29:6

<p>101:7 103:16 convoluted 114:11 copies 7:13 corner 11:8 13:16 67:14,16 107:3 correct 14:11 22:4 28:17,20 44:3 51:18 58:2 62:16 71:19 72:17 75:22 76:13,14 83:2,21 86:3 105:5,6,16 107:16 111:19 112:1 113:21 115:9 correspondence 22:6 23:15,21 24:2 50:15 73:11 107:20 118:6 cost 85:7 90:1,1 103:6,15 cost-prohibitive 80:20 cottages 39:6 Council 28:22 30:4 counsel 55:11 123:9 count 14:16 couple 13:20 22:12 28:11 81:14,16,17 85:14 87:17 course 12:3 15:2 27:13 85:13 107:18 Court 3:11 crawl 99:18 create 81:2,20 82:6 84:19 87:9,19 103:7 created 52:1 76:4 97:14 98:2 115:14</p>	<p>creates 85:6 creating 85:18 99:18 101:19 103:15 crisis 30:3,5 criteria 30:12 31:12 52:6 75:20 76:8 95:10 96:1,2 103:20 115:7 115:19 cross 72:13 crossing 67:15 curb 12:19,22 22:18 current 80:16 82:2,6 87:2,14 87:15,18 111:20 currently 50:6 67:12 68:3 81:5,7,15 82:2 87:12 103:14 customizing 81:8 cut 12:19,22 22:18 23:22</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 2:1 3:1 D’Almeida 108:11,11,14 109:9 110:1,9 110:11,19 111:4 Daniel 1:8 3:5 4:11,12,20 6:3 17:2 18:2,17 26:5 31:8,9 40:3,6 41:15 41:16 42:16 43:4 44:15,16 44:16,17 46:4 47:9,10 48:4 52:17,18 54:4 57:16,19 58:3 64:17,18 66:4 78:3,4 79:4</p>	<p>84:13 85:19 90:10,14 92:2 92:3 93:4 114:17 116:14 116:15 118:4 118:13,14 119:4 121:14 121:15 122:7 dashed 67:15 date 2:4,6 22:8,9 43:13 44:6 46:11,16 47:7 63:19 64:9 98:2 99:8 112:16 120:20 121:10 dated 52:10,11 76:12 77:3 89:4 91:15,15 116:4,7 dates 76:20 77:1 daughter 80:7 David 44:14 day 123:13 de 47:2 64:4 121:5 deal 105:2 debate 114:7 decade 54:12 December 76:12 76:12 decide 62:6 decision 103:1 deck 8:15 10:5 13:12 23:7 36:4,6,8,12,13 36:16,17 72:12 decks 23:6 35:22 36:2 decreased 36:1 decreases 81:17 deep 11:15 13:7 defining 112:22 definition 69:7 delay 104:21 deliberation 112:5 delivered 7:14</p>	<p>demonstrate 15:9 denied 40:13 denotes 67:15 Department 46:21 47:1 64:1,3 102:19 104:13,14 121:2,4 depicted 112:16 112:21 depiction 8:20 19:10 derogate 16:16 28:8 describe 19:19 describing 101:4 design 6:21 8:2 8:3,5,10 19:21 21:3 22:22 23:1 25:16,18 39:4 61:5 81:5 desirable 32:18 desired 59:14 details 21:5 87:1 determination 102:3 determining 34:2 detriment 27:5 27:12 32:6,12 32:19,21 33:14 34:3 49:10 52:2 76:5 115:15 detrimental 9:6 67:22 69:14 develop 15:5 Developers 6:10 development 31:20 51:21 76:2 115:12 DH 66:18 76:11 diagram 62:6 difference 24:8 104:6 different 15:8</p>	<p>29:21 35:13 36:7 difficult 15:1 87:8 difficulties 26:16 dig 87:16 dilemma 26:22 diligently 7:10 dimension 70:16 dimensional 47:5 52:13 64:7 77:5 82:11,21 91:9 91:18 116:10 121:8 dimensions 13:4 81:9 directing 109:7 direction 55:12 directly 7:10 23:3 35:11 49:18 108:14 disagree 99:22 disappointed 24:5 disappointing 86:12 disconcerting 36:15 discuss 21:4 discussed 77:17 discussion 26:10 26:20 28:2,5 29:4 32:2 51:8 75:9 89:19,22 90:8,9 108:19 109:20 111:9 112:3 discussions 113:3 distinct 10:21 39:7 district 52:4,4 55:17 76:7,7 105:14,15 106:1 115:17 115:17</p>
---	---	--	---	--

districts 57:5 114:1	116:3 121:8	either 7:11 8:2,3 32:19 50:16 73:11 106:20 113:21	116:3	86:22 101:5,5
diversity 28:14	drive 37:10	element 69:3	entrance 27:18	exists 19:16 81:8 96:7
divided 10:20	drives 90:4	elevation 68:17 70:8 76:17 77:10 88:3	entry 59:7 62:15 62:21 68:16 69:8	exiting 9:9
document 55:4	driveway 8:20 37:9,11,13 68:16 74:16	elevations 50:9	environment 85:11,12	expands 20:1
documentation 29:1	driving 100:9	eliminate 9:14	envision 80:12	expense 103:16
doesn't 101:3	DRT 116:4	eliminated 8:12	equal 71:10	experience 104:10
doing 61:5 84:21 85:4 108:20	Dudley 2:14 38:22 119:5	elimination 14:7	equivalent 99:18	experienced 9:6
dominate 27:8	due 103:19	Elizabeth 123:4	essence 109:21	expert 56:1 83:11 102:11 104:22
don't 9:11	dug 85:1	Ellen 26:2 35:6 38:3,4,5,5 94:6 94:11,11,13	essential 100:12	expired 44:3,4
door 12:18 23:11 59:9,11 59:13 74:9 97:15 98:19 103:5 106:21 106:22 107:2 107:13,14,15 110:15	dwelling 94:17 94:20 95:8,9 95:14,16,21,22 96:8,14,20 97:4 98:7 99:7 101:16 105:3 105:10,12,13 105:19,20,22 106:1 113:19 114:8 115:5	Elm 2:9 54:5 55:17 56:19	essentially 87:15 99:17	expires 44:2 123:17
doors 37:2 69:8 99:16 106:6,7 107:5	dwelling 96:19 113:14	Emily 22:11 38:7	establish 84:18 85:16	explain 97:13
doorways 109:15		employed 123:9	estimates 80:17 85:4	explored 104:16
Dorchester 10:12	E	Employees 1:11	estimation 69:16	expressed 7:1 74:13 112:14
dormer 8:11,13 10:18 11:19,21 11:22 14:7 17:18 21:7 23:4 35:20 69:2 70:15,15 71:16 73:5 75:14 88:4,7 88:18	E 2:1 3:1,1	enclosed 70:9,12	et 32:16 91:8	extend 81:11
dormers 68:11 71:5 77:9 88:13,16,20	eager 26:21	encourage 29:16	evening 6:9 10:9 48:9 93:9,11 93:15,22 104:2 117:4	extending 15:21
double 11:8	earlier 62:14 75:4 96:5 104:1 112:15	encouraging 29:15	event 102:13	extends 82:18
downconversi... 30:5	earliest 63:9	encroach 69:9	everybody 38:19 74:12 122:6	extension 2:5 37:21 43:12,15 43:17,19 45:4
dramatic 27:17	Earth 19:16	encroaches 69:4 82:1	evident 9:9	extensive 99:1
dramatically 12:6	eave 68:22	encroaching 67:11	exactly 17:3 109:4 113:17	extent 18:7 62:18
drawings 47:5 52:9 64:7 76:11 91:14	eaves 87:12	encroachments 69:1	example 38:11	exterior 68:10 69:3 85:13,14 86:8 96:3,5 102:8,20,20 104:3,7,11 111:2
	echo 39:2	energy-efficient 80:18	exceed 81:18 87:6 101:12	external 111:2
	edge 19:16 55:16	enforcement 20:13 91:6	excuse 30:14 56:5 95:9	extra 4:19 81:10
	educate 14:21	engineers 80:17	exempt 17:10	extreme 28:15
	effect 27:17 57:7 59:19	enlarge 82:12	exist 9:10	F
	effects 23:8	entering 9:9 37:8	existence 95:12	faces 56:19
	efficiency 81:3 84:19	entertain 40:22	existing 15:21 18:3 19:17 31:14 48:20,22 49:6 50:2,9 67:5,21 68:4 69:3 75:15 82:1 84:21	facing 23:5 36:8 36:13
	effort 56:18	entire 20:20 49:7 101:11		fact 35:22 55:7 62:5 81:9 90:3 91:3 100:1 101:6,14 106:5 107:7
	egress 51:19 68:13 69:8 70:7 102:7	entirely 85:5		facto 47:2 64:4
		entirety 81:21		
		entitled 52:9 76:11 91:14		

121:5	feels 58:18	78:9 80:6 92:8	footprint 81:7	91:17 109:11
factor 100:9	100:10 101:21	116:22	forget 28:19	114:7 116:9
fail 62:21	103:8	fixed 32:3	form 52:13	123:8
Failure 47:2	feet 18:1 22:15	flanking 59:13	82:11,22	future 63:2 98:1
64:4 121:5	24:6,8 68:4	flood 61:12,13	forms 47:5 64:7	98:6,21 100:18
fair 29:8,13 30:6	81:15,16,17	floor 12:7,7,15	77:5 91:18	106:17 112:15
Fairmont 2:5	87:17 95:15,17	14:9,16 21:1	116:10 121:8	113:7 116:2
43:8,11,18	95:18 100:6,16	33:20,20 36:4	forth 55:14	
familiar 88:4	felt 28:12	36:6,16 49:3	forward 40:12	G
family 22:14	fence 49:1	49:21 50:1,2,4	56:13 108:20	G 3:1
24:6 27:8,10	Fernando 1:8	50:5 58:11	114:13	gabbling 68:9
32:21 80:5,14	file 7:21 22:7	59:18 68:3,4	found 104:14	garage 9:2,7,11
80:15 84:19	24:15 50:15	68:14,15,20	foundation 87:5	9:14 12:3,16
85:17 87:8	73:11 89:3	69:2,6 70:15	87:14,18	12:18 19:2,2,3
105:12	107:20	80:19 84:20	four 16:11 27:9	19:14,16,20,22
far 17:18 20:12	files 47:6 64:8	87:16,17 88:10	28:7 33:8,11	20:1,6 23:9,11
27:5 67:6	121:9	95:7,16 97:16	34:9 68:5	35:13 36:18
69:15 80:1,2,2	finally 23:9	97:19 98:10	74:12 105:22	37:1,8,21
103:22	finance 85:16	99:2 100:16	four- 24:5	54:21 58:19
farther 31:20	financial 15:10	101:1,11,15,15	four-family	94:21 97:17,19
favor 39:21 40:2	84:18	103:16 106:6,8	32:21	97:20,20 98:10
41:14,16,18,20	financially	106:13,14,19	four-unit 16:12	98:19 100:2,13
41:21 42:1	123:10	106:21 107:1,6	frankly 102:19	100:14 101:5
44:17,19,21	find 4:1 25:16	110:8 111:2,12	104:12	107:4,12,13,14
45:1,2 47:10	26:22 28:16	111:13,15,16	friend 56:15	107:15
47:12,14,16,17	31:4 32:12	111:19,21,22	front 37:15,15	garages 37:4
52:16,18,20,22	57:17 70:16	112:14 113:1,5	48:19 59:8	Gary 54:7,10,11
53:1,3 64:12	99:20 100:12	113:7 114:15	60:16 67:7,13	54:16,20 56:5
64:14,16,18,19	107:20 115:19	115:22 116:1,6	67:14,16 68:9	56:10,14 57:12
77:22 78:2,4,6	finding 56:8	116:7	72:4,9,10,16	58:11,15,21
78:7,9 90:6	fine 72:3 83:4,21	floors 88:21	73:3 97:12,18	59:10 60:18
91:21 92:1,3,5	86:16 88:8	focus 10:2 33:7	97:20 107:2,4	61:2,19 62:1,8
92:6,8 116:13	120:1,9	33:16 107:6	107:12 110:15	63:9,11,15
116:15,17,19	finish 8:22	112:21	full 59:11 80:19	65:1
116:20,22	finishes 24:10	focused 106:13	85:1,2 87:19	gatherings
118:10,12,14	firmness 62:20	107:8	106:22 107:4	13:18
118:16,17	first 6:5 12:15	focusing 34:2	107:11	GCD 48:10
121:13,15,17	35:18 49:2,21	folks 34:14	full-height	52:10
121:19,21	50:2,4,4 67:18	60:12	87:10,10	general 1:3 3:11
feasible 20:18	68:15 69:5	follow 56:2 83:9	full-sized 13:12	8:7
February 6:20	101:14 106:7	113:17	fully 34:4 81:2	generally 4:3
7:9 8:2 19:3	106:12,13,21	follow-up 7:22	85:1	16:6
52:10 95:12	107:1,6 110:3	24:1	fumes 9:8	generated 51:19
116:4	111:15	following 39:19	functionally	76:1 115:10
feel 21:16 28:7	fit 13:20 69:11	75:4 77:7	13:19	gentrification
31:6 32:5 39:5	86:5 100:6	foot 12:22 20:2	further 8:17	27:1
113:12,18	fits 27:10 95:4	footage 14:8	20:5 52:12	getting 74:11
feelings 40:1	five 42:1 53:3	99:6	69:1,9 77:3,6	80:16 114:11

<p>GFA 17:9 67:6 67:17,19 75:15 Gilbert 54:7,10 54:11,16,20 56:5,10,14 57:12 58:11,15 58:21 59:10 60:18 61:2,17 61:19 62:1,8 63:4,8,9,11,15 65:1 Gilbert's 56:2 girth 37:12 give 3:22 40:17 40:19 47:3 48:6 61:9 62:22 63:7 64:5 68:20 69:22 80:2 94:5 104:18 112:8 121:6 given 81:8 95:6 96:19 103:14 gives 13:15 giving 7:3 12:17 glass 59:11 Glassman 48:9 48:10 53:5 go 10:5,8 18:20 19:11 25:10 31:20 32:11 33:5 35:9 37:13,13 39:1 40:12 42:6 44:10 48:18 51:9 55:15 56:12 57:11 58:9 60:11 63:11 67:9 68:17 74:20 82:14 85:22 88:3 90:21 99:13 101:15 108:13 goal 16:6 goals 55:1 goes 20:13 going 6:5 13:5</p>	<p>16:11 19:6 23:11 26:9 27:8,16 28:20 29:22 30:20 34:13 36:12,19 37:1,3,5,17,18 38:10 44:6 46:6 58:17 61:14 66:5,10 68:20 74:17 76:22 80:20 81:9,11 85:6 85:10 87:4,8 87:12 89:2 97:19 100:13 110:14,15 113:10 118:7 good 4:22 6:9 10:1,9 16:16 27:6,12 32:6 32:19,22 33:14 34:3 38:11 41:9 48:9 57:11,20 74:19 93:9,11,22 103:7 117:4 120:4 Goodnight 53:5 117:4 122:6,7 Google 19:15 56:11 Google's 56:14 Gotcha 84:8 Governor 3:12 grade 73:1 grandfathered 102:9 108:16 grant 43:17 51:11 75:11 90:22 91:4 114:13,22 granted 32:18 45:4 47:19 53:4 77:6 78:10 92:9 116:7 117:1 granting 105:8 great 10:13</p>	<p>greater 95:15 gross 14:16 ground 40:6 59:12 97:16,19 98:10 99:2 101:11,15 103:16 106:6 110:8 111:12 111:19,21 112:14 113:6 116:1,7 group 80:22 growing 80:14 guess 17:3,10 18:5 31:13 69:13 84:13 90:10 102:8 109:9,10 guidelines 88:5 88:7,20</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>habitability 100:17 Hamilton 108:12 Hampshire 80:22 hand 23:19 24:18,20 25:10 25:21 34:17,19 50:20,21 51:7 62:11 73:15,16 89:9,11 108:2 108:4 119:10 123:12 handling 10:4 hang 31:1 happen 63:2 109:6 111:16 happening 19:5 happy 9:19 16:20 59:4 61:2 100:22 112:13 hard 26:13 28:13 hardship 14:21</p>	<p>14:22 15:8 20:12,15,21 32:8 39:17,20 84:16,17 86:15 86:19 89:20 91:7 Harvard 6:6 10:11 Harvey 2:3 6:7 6:18 22:9 23:4 35:11,19 41:13 HAWKINSON 62:13 hazard 52:1 76:4 115:14 heads 74:17 headset 80:4 health 52:2 76:5 115:15 healthy 58:18 hear 7:5 25:1 26:4,21 27:13 29:2 34:4,22 51:3 56:5 62:1 63:14 66:14 73:20 79:8,17 84:13 88:14 89:14 108:7 119:16,19 heard 6:20 7:8 25:13 28:10 39:3 109:5 120:13 hearing 1:3 2:4 2:6 7:12,17 8:2 14:20 24:14 26:14 37:1 46:19 63:21 67:1 86:15 96:16 110:21 120:22 hears 23:11 heavily 33:12 height 10:19 11:8 17:19 68:6,20,21 72:21,22 80:19 85:1,3 87:6,11</p>	<p>87:19 Hello 38:21 54:7 74:1 79:8,10 108:11 119:11 help 17:2 112:5 122:5 helpful 110:9 helps 79:12 hereunto 123:12 hi 25:12 38:5 66:9,21 93:10 93:18,22 106:10 Hidalgo 1:8 3:5 4:11,12 6:4 17:2 18:2,17 26:5 31:8,9 40:3,6 41:16 43:4 44:17 46:4 47:10 48:4 52:18 54:4 57:16,19 58:3 64:18 66:4 78:4 79:4 84:13 85:19 90:10,14 92:3 93:4 114:17 116:15 118:4 118:14 119:4 121:15 122:7 high 23:7 highly 25:16 hip 68:3,6 Hiserodt 66:13 66:17,17 67:4 69:20 70:2,11 70:17,20,22 71:4,6,8,10,12 71:15,20 72:1 72:6,12,18,22 73:7 76:14,19 77:14,17 78:11 113:17 Historic 81:4 history 108:17 Hold 24:3 62:9 home 23:3 25:16 30:18 35:5</p>
---	--	---	---	--

81:3 82:6	images 19:6	81:16 82:3	106:18	107:14 112:5,7
84:19 85:5,21	impact 56:19	increases 68:14	internal 106:18	112:12 117:3
87:2 88:8,9,19	67:22 68:18	increasing 31:14	intricate 21:5	Jason 22:9
homeowners	70:7 85:15,17	87:11	introduce 28:22	JDA 108:10
118:7	impacting 68:18	indefinitely 16:8	54:8 66:15,19	Jennifer 24:4
homes 22:15	impacts 22:20	indicate 77:8	74:3 79:13	Jessica 38:20,21
80:22 81:3	69:15	indicates 88:7	94:2,4	38:21 39:2
91:15	impair 52:4 76:6	indoors 102:12	introduction	Jim 1:7 3:4,7,9
hope 37:22	115:17	inform 7:14	9:14 119:16,19	4:7,8,8,19 5:1
79:12	importance	inherent 31:18	investment	5:4 6:3,5 10:1
hopefully 32:3	28:14	inherited 95:3	15:20	16:22 18:16,18
80:11	important 11:10	initialed 52:11	involve 91:6,6	20:10 22:4
hoping 12:18	21:19	77:3 91:15	involves 14:12	24:3,13 25:9
80:14 106:15	impossible 15:4	116:7	iron 110:16,16	25:20 26:4,6,9
hours 63:12	impractical 15:4	inside 69:7	ISD 60:12 61:7	26:12,17 27:22
house 20:2	improved 90:2	Inspectional	61:16 62:7	28:1,4,17
27:16 35:10	improvement	46:21 47:1	63:11	30:11,17,20
36:20,22 48:15	74:11 115:22	64:1,3 121:2,4	issue 21:9 35:17	31:1,9 32:1,5,7
49:7 50:7 67:6	improvements	Inspector 99:15	76:21 82:7	33:3,5 34:11
74:11 81:14	103:21 110:3	inspectors 58:16	83:5,19 87:4	34:13 35:9
86:16 87:16	111:13,15	install 103:4	102:15 104:10	37:18 38:4,18
91:10 97:8	113:5,6,7	instances 41:2	104:10 105:13	39:1,10,13
houses 27:8,8,19	114:14 116:1	institute 63:1	issues 9:8 32:3	40:4,7,9,12
housing 27:9,10	in-law 80:15	instructions	33:19 35:13	41:5,8,11,15
28:9 29:15	87:7	3:22 4:2	84:22 119:7	41:17,19,21,21
30:3,5 34:6	inches 36:21	insulate 85:11	it'll 44:10 77:1	42:1,4,7,9,12
Hue 10:10	85:21 86:5,11	insulated 81:2	91:5	42:16 43:3,5,9
huge 100:1	inclined 28:6	91:8	item 16:2 18:8,9	43:16 44:1,5,8
hump 36:11	include 75:19	insulation 81:10	items 18:11	44:10,14,16,18
	112:19 113:6	integrity 52:4	20:22 21:15	44:20,22 45:2
I	included 7:13	76:6 86:22	33:16 34:1	45:2,4,7,9 46:3
I'll 10:7 62:8	99:5 101:11	115:17		46:5,11,13
I'm 6:5,12,16	includes 29:14	intend 111:21	J	47:11,13,15,17
10:4	including 14:7	111:21	Jackson 2:11	47:17,19 48:3
ice 102:13	29:18	intended 101:14	79:6 80:5,8	48:5,7,9 50:13
icon 23:18 24:17	income 29:16	intending 61:8	89:4 91:14	51:7 52:17,19
34:16 50:19	incompatible	intensity 57:1	Jaime 108:11,11	52:21 53:1,1,3
73:14 89:8	23:1 29:18	intent 16:17	108:14 109:9	54:3,5,8,14,19
108:1	incorporate	28:8 100:11	110:1,9,11,19	56:1,7,12
idea 97:18	52:12 77:4	intention 98:20	111:4	57:10,13,18,20
102:11,12	91:17 116:9	99:3 100:6	James 93:9,11	58:2,6,9 60:4,8
ideal 55:14	incorporating	101:20,21	93:12,19 94:4	60:10,20 61:5
ideally 54:22	77:7	103:18 112:17	94:16 96:22	61:17,21 62:4
identify 98:17	incorrect 62:17	interested	97:4,7,16	62:9 63:3,7,10
illustrates 8:20	increase 21:1	103:10 123:10	98:16 99:22	63:14,16 64:13
image 18:22	57:1 67:19,21	interior 85:11	101:8 102:18	64:15,17,19,19
19:1,2,8,13,16	68:2 69:5,14	86:8 87:17	103:11 104:9	64:21 66:3,5
19:19	75:15 80:19	98:2,6 104:7,8	105:6,11 106:4	66:15 67:3

69:19,22 70:3 71:2,5,9,11,14 71:16,21 72:3 72:7,15,20 73:2,8 74:3,6,8 74:19,22 75:3 75:7 76:16,22 77:15,19 78:1 78:3,5,7,9 79:3,5,10,13 79:17,19 80:1 82:8,14,21 83:4,9,11,15 83:17,21 84:2 84:4,6,8,11 86:3 87:21 88:1,11,14,22 89:2 90:13,15 90:18,20 91:22 92:2,4,6,6,8,12 93:3,5,10 94:2 94:9,12,15 96:9,12,15,21 97:6,9 98:14 99:9,13 101:2 102:4 103:9 104:18,21 105:7 106:3 107:10,17,19 108:13 109:7 109:19 110:2 110:10,18,22 111:5,8 112:6 112:8 113:2,10 113:16 114:3,6 114:18,21 116:14,16,18 116:20,20,22 117:6 118:3,5 118:11,13,15 118:17,17,19 119:3,5,12,14 119:16,19,21 120:3,5,7,10 120:12,15,17 121:14,16,18 121:20,20 122:1,4	John 62:10,12 62:13 join 62:21 Jonathan 23:2 25:6,8,9,21 30:15 35:4,4 35:10 37:20 July 91:15 jump 10:6,7,12 111:10 113:10 <hr/> K <hr/> keep 29:3 87:15 keeping 38:13 Keesler 1:8 3:5 4:17,18 6:3 28:6 41:18 43:4 44:19 46:4 47:12 48:4 52:16 54:4 57:21 58:4 64:12 66:4 78:6 79:4 86:20 87:20 91:21 93:4 96:11,17 97:3 116:13 118:4 118:10 119:4 121:13 Kent 26:2,2 35:6 38:5 kept 3:21 kicked 59:16 kicking 104:22 kind 32:22 55:15 58:18 61:13 63:1 86:18 Klemas 48:12 know 6:19 12:17 12:21,21 13:17 13:19 14:20,22 15:3 16:3,5,19 17:6,8 21:15 21:17,18 23:22 26:17 27:4 28:10 29:2 31:2,6,17	32:12 33:17,18 36:3 37:1,12 38:2 55:13,17 59:17 60:22 62:22 66:11 74:15 84:15 86:13,17,18 93:16,19 99:17 100:11 102:2 102:11,16 103:7 104:2 106:16 109:17 110:12,13,20 knowing 87:4 <hr/> L <hr/> laid 55:5 95:7 103:14 land 29:17 32:9 32:16 language 113:12 113:21 114:1 large 10:18 11:14 36:10 68:1 69:18 85:7,11 99:15 103:4,5 largely 68:2 larger 18:22 91:11 103:15 lastly 16:5 22:22 Lauren 66:9,19 66:21,21 78:13 law 55:5,8,15 lead 31:19 57:5 leads 31:19 leave 43:13 44:12 61:6 leaves 39:16 left 16:2 19:1 26:18 36:4 49:12 67:14 68:12,16 82:22 83:5,6,7 left-hand 49:16 107:3 lends 103:13 length 70:15	88:18 LESOLTIS 79:8,11,15,18 79:20,22 80:3 82:20 83:3,6 83:13,16,19,22 84:3,5,7,10,17 86:2,6,13 87:2 87:22 88:6,13 88:16 89:1 92:10 let's 17:6 61:6 63:3 letter 8:6 9:3 22:8 35:21 36:2 43:7 46:7 57:8 89:3 letters 7:6,13,18 7:22 letting 31:2 level 14:12 21:2 59:16 72:13 95:16,17 97:12 100:14 101:19 103:22 106:12 107:6,8 110:3 110:3 leveled 36:13 levels 29:16 life 15:22 23:11 80:7 light 11:4,4,9,15 12:1 49:5 50:6 58:13 59:18 68:10,12 96:1 limit 23:8 88:18 99:6 limitation 98:4 101:12 limitations 81:8 limited 90:3,3 limiting 88:20 line 12:11 13:14 13:15 16:14 28:13 30:1 39:4 48:21 49:1 67:15 68:22,22 69:2	81:5 87:18 lines 59:1 linked 84:16 list 59:14 listed 56:11 listen 10:14 listened 36:1 literal 20:13 91:6 literally 13:22 little 56:21 58:13 68:20 74:11,17 80:13 81:20 84:14 99:20,21 106:17 livable 80:19 live 35:20 54:12 79:15 80:4 lived 80:6 lives 48:19 80:11 80:12 living 49:4 84:19 85:2 87:6 98:17 99:4 100:7 101:19 103:16 108:17 112:18,22 LLC 6:10 locate 49:13 located 9:1 57:4 location 8:20 27:7 49:14 locations 50:10 logic 56:16 113:18 long 29:14 36:3 54:22 72:12 longer 8:4 97:19 longevity 15:22 look 20:6 29:8 33:17 39:4,7,8 101:10 looked 74:13 looking 22:8 40:4,5 49:18 58:11 60:17 62:5 75:14
---	---	--	--	---

76:16 77:9 80:21 82:3,21 86:19 102:16 103:7 looks 54:21 97:14 lost 62:1 83:12 lot 11:7 13:8,15 13:18 20:16 27:7 37:5 38:9 48:21 49:1,6 50:6 57:3 61:11 82:2,5 94:21 95:22 98:16 105:5,13 105:21,22 lots 107:5,5 love 58:22 59:11 loved 80:9 low 87:12 lower 18:8 19:1 31:18 49:14,16 70:8 95:21 100:13 101:19 103:22 luxury 86:10 Lynds 6:9,10,13 6:16 10:3 14:3 14:5 17:13,16 17:21 18:4 20:19 23:20 24:12 27:20 28:3 33:2,4,6 34:12 40:9,9 40:11,16 41:6 42:3	mandate 29:10 mandatory 22:1 March 1:3 3:7 19:1 22:11 23:2 24:4 89:4 Marett 66:9,21 66:21 78:13 Maria 46:20 63:22 121:1 Mark 119:11,13 119:15,17,18 119:20 120:1,4 120:8,9,16 122:3 Mary 26:2,2 35:6 38:2,4,5,5 94:6,11,11,13 Maryellen 93:13 93:15,18,22 94:4,6 106:10 107:11,13,16 107:18 108:20 117:5 Mass 52:9 Massachusetts 1:5,6 3:11 10:12 123:2,5 master 11:1 13:22 Matt 6:11,12 7:19 9:18,20 10:7,9,10 14:3 14:4,11 17:14 17:17,22 19:7 19:22 20:9 21:4 matter 14:18 41:2 46:15 47:8 63:5,17 64:10,21 113:22 118:19 120:18 121:11 122:1 maximum 68:6 68:22 McAvoy 123:4 mean 30:8 31:16 33:6 58:16	69:15 86:14 means 70:7 102:7 meant 13:21 60:6 measuring 85:10 meet 15:15 18:13 meeting 1:4 3:8 3:14 7:9 30:4 46:9 47:7 62:16,16,17,21 64:9 75:2 84:14 93:20 121:10 meetings 3:13 4:2 meets 32:13 52:6 76:8 82:17 member 23:17 34:15 62:10 112:2 members 3:4,18 3:18,21 4:5,6 6:3,15 10:9 16:22 18:18 20:10 22:5 24:16 26:4,10 27:13 31:6 32:2 38:16 39:15 43:3 46:3 47:9 48:3 48:10 50:14,18 51:9 54:3 57:14 58:6 64:11 66:3 70:3 72:7 73:8 73:13 75:9 77:19 79:3 82:9 84:11 89:7,19 91:20 93:3,12 96:10 97:10 99:10 100:21 102:5 107:19,22 111:9 113:3	114:12 117:3 118:3 119:3 120:12 121:12 122:4 mention 30:15 38:9 56:8 57:17 73:3 mentioned 22:12 30:12 35:12 82:16 met 51:17 75:22 96:2 115:8 metal 110:19 method 111:1 middle 27:7 Middlesex 123:3 mind 29:3 60:3 minimum 15:19 21:16 81:18 82:18 83:6,14 minor 69:6,16 minuscule 90:12 minutes 4:3 25:2 30:21 35:1 37:19 51:4 73:21 89:15 108:8 missed 18:3 23:22 missing 31:16 mistake 76:15 112:20 mistaken 22:3 59:7 misunderstood 36:7 mitigation 61:13 Mm-hm 20:9 modern 84:19 modifications 14:7 16:3 modify 111:19 moment 7:20 29:1 31:3 39:22 40:19 104:19 Monday 47:2,7 64:4,9 121:5	121:10 money 103:6 Monteverde 1:7 3:4,7,9 4:7,8,8 4:19 5:1,4 6:3 6:5 10:1 16:22 18:16,18 20:10 22:4 24:3,13 25:9,20 26:4,6 26:9,17 28:1,4 28:17 30:11,17 30:20 31:1 32:1,7 33:3,5 34:11,13 35:9 37:18 38:4,18 39:1,10,13 40:4,7,9,12 41:5,8,11,15 41:17,19,21,21 42:1,4,9,12,16 43:3,5,9,16 44:1,5,8,10,14 44:16,18,20,22 45:2,2,4,7,9 46:3,5,11,13 47:11,13,15,17 47:17,19 48:3 48:5,7 50:13 51:7 52:17,19 52:21 53:1,1,3 54:3,5,8,14,19 56:1,7,12 57:10,13,18,20 58:2,6,9 60:4,8 60:10,20 61:5 61:17,21 62:4 62:9 63:3,7,10 63:14,16 64:13 64:15,17,19,19 64:21 66:3,5 66:15 67:3 69:19,22 70:3 71:2,5,9,11,14 71:16,21 72:3 72:7,15,20 73:2,8 74:3,6,8 74:19,22 75:3 75:7 76:16,22
M				
main 20:4,6 85:15 94:20 110:14,15 119:15 maintain 10:15 making 16:13 69:11 managed 11:20 Manchester-b... 54:12				

77:15,19 78:1 78:3,5,7,7,9 79:3,5,10,13 79:17,19 80:1 82:8,14,21 83:4,9,11,15 83:17,21 84:2 84:4,6,8,11 86:3 87:21 88:1,11,14,22 89:2 90:13,15 90:18,20 91:22 92:2,4,6,6,8,12 93:3,5,10 94:2 94:9,12,15 96:9,15,21 97:6,9 98:14 99:9,13 101:2 102:4 103:9 104:18,21 105:7 106:3 107:10,17,19 108:13 109:7 109:19 110:2 110:10,18,22 111:5,8 112:6 112:8 113:2,16 114:3,6,18,21 116:14,16,18 116:20,20,22 117:6 118:3,5 118:11,13,15 118:17,17,19 119:3,5,12,14 119:16,19,21 120:3,5,7,10 120:12,15,17 121:14,16,18 121:20,20 122:1,4 month 2:5 43:12 43:15,17,19 months 28:11 85:14 Moreshead 22:11 motion 41:11 43:17 46:14	47:8 51:9,11 63:5,16 64:10 75:10,10,11 90:9,21,22 113:4,9 114:13 114:21,22 120:17 121:11 move 12:18,19 28:21 66:5 80:10 90:9 moved 8:17 moving 12:22 23:12 90:6 114:13 Mueller 6:11,12 9:18 10:9,10 14:4 17:14,17 17:22 19:7,22 20:9 multifamilies 88:20 multifamily 22:13 28:20 55:9,19 57:5 88:9 multiple 76:20 Munnely 66:22 78:12 mute 3:21 24:20 34:19 50:21 73:16 89:11 108:4 muted 27:22 62:2 <hr/> N N 2:1 3:1 name 3:8,19 6:16 10:10 24:22 34:21 51:2 54:11 73:19 89:13 108:6 narrow 37:7 narrower 85:22 86:5 Natola 1:11 4:7 4:9,11,13,15	4:17 25:6,11 26:2 35:3 38:20 39:12 41:10 42:6 43:8,15,22 44:4,7,9 45:5,8 46:10,12 48:6 51:6 63:6,13 75:1 82:13 83:10,18 88:12 93:21 108:10 111:7 120:6,11 120:14 natural 50:6 68:12 nature 39:7 67:21 near 81:3 112:17 nearby 56:20 necessarily 33:17 necessary 15:19 88:18 105:18 105:21 need 17:4,11 21:16 27:13 37:14 42:7 59:20 61:13 63:8,12 70:9 70:11 72:14,16 73:4 74:15 77:12,16 84:22 86:18 87:13 105:8 113:21 116:1 needed 20:14 needs 34:2 103:8 109:3,5 neighbor 7:11 12:18 13:1 19:10 30:15 35:6 38:2 57:8 neighbor's 12:12 13:10 19:1,5,14 20:3 neighborhood 22:20 23:1	25:17 27:6 38:10,14 39:5 39:8 49:10 56:20 57:7 68:1 69:15,18 80:10 81:6 85:8 96:4 neighborhoods 29:17 neighboring 12:8 neighbors 11:13 13:16 25:14 26:22 49:9 110:13 neither 81:19 123:8 Net 81:3 neutral 8:8 new 10:2 18:2 22:16 23:15 35:16 36:13,19 46:16,17 47:4 48:15 49:2 50:10 51:14 55:2 63:19,19 64:6 73:1 75:13 80:22 81:10 82:6 85:5 86:16 87:13,19 90:2 90:2 91:8 120:19,20 121:7 Ng 1:7 3:4 4:9 4:10,22 5:3,5 42:11,14 43:3 44:21 46:3 47:14 48:3 52:20 54:3 64:14 66:3 70:14,19,21 71:1,7 78:2 79:3 90:16 92:1 93:3 112:4,4,9 114:5,20 116:17 118:3	118:12 119:3 121:17 122:6 nice 49:18 Nobody's 51:7 noise 9:8 36:20 37:5 nonconforming 15:7,8,12 16:4 16:7,7 18:1 21:14 49:6 67:5,6,17,19 67:21,21 75:15 75:16 nonconformiti... 31:15 nonconformity 9:15 17:7 18:3 69:14 90:11 Nope 51:9 114:5 Norfolk 2:8 48:7 48:13 52:9 north 2:9 54:5 81:16 Notary 123:4,16 note 96:22 noted 17:10 72:3 96:5 98:22 104:1 112:15 notice 13:4 55:7 November 123:18 Nuisance 52:1 76:4 115:14 number 6:21 7:16 15:13 22:17 62:17 numbers 29:7 <hr/> O O 3:1 O'Sullivan 119:13 object 9:2 24:11 objection 9:12 12:13 22:9 objections 8:1 25:14 38:8,16 38:17 49:9
---	---	---	--	---

objective 100:20	112:7 113:2,16	91:1 94:18	panels 81:2	permeable 82:4
obtain 18:14	114:18 120:1,4	95:5 100:10,10	85:12	permit 2:5 17:5
obtained 46:20	120:10,13	115:1,8	paragraph	17:12 18:15
63:22 121:1	old 54:20,21	ordinary 62:20	29:14,20	31:15 43:13,18
obvious 32:22	Olivia 18:21	original 2:4,6	parcel 15:1	44:6 48:14
obviously 97:17	46:20 48:17	8:1 18:6 19:8	pardon 56:14	50:12 51:10,13
occupancy 16:9	63:22 67:8	originally 19:12	park 74:18	51:16 52:6
55:6,8 57:17	77:18 121:1	54:16 55:3	100:14	59:2,5,16,22
occupant 56:4	once 39:13	outcome 123:10	parked 37:7	60:20 75:20
occur 98:18	80:20 110:7	outline 49:13	parking 9:16	76:9 77:6,13
occurring 97:7	one's 89:17	outreach 7:15	16:14 21:12,18	96:13 100:19
October 43:20	one- 105:10,11	outside 103:5	22:2 57:2,2	100:22 102:1,2
44:10	115:4	overall 21:17	part 52:13 59:4	103:20 104:12
offering 112:12	one-or 105:17	23:1 29:9 82:5	72:4 76:15	105:12,17
office 94:22 95:6	one-unit 16:13	85:10,17	77:5 91:18	114:14 115:7
95:6 101:6	open 11:7,11,12	overhead	95:21 97:15	115:20
offsite 81:1 85:9	11:16 14:18	107:14	98:7,11 99:20	permitted 34:9
86:7	16:2 17:7	overlooked	109:17,18,19	104:4
Oh 17:21 43:9	18:10 21:13	16:12	110:20 111:22	perplexed
49:16 56:10	22:7 23:16	overstepping	112:20 116:10	111:11
58:3 70:17	24:16 30:20	90:5	participate	person 10:4
76:17,19 79:18	33:21 37:2	owing 32:14	93:16	62:20
88:14 96:17	50:16 70:9	owned 95:1	participation	personally
97:3	73:9,12 89:2,6	owner 54:11	3:12	89:20 110:6
okay 5:4,5 9:21	107:21	55:6,8 57:17	particular 31:13	persons 29:15
10:1 18:3,16	opening 23:11	94:13 97:21	33:19	petitioner 6:18
19:18 24:12	openings 50:10	owner- 56:3	particularly	46:16,18 63:18
25:10 28:3	60:13	owner-occupa...	39:20	63:20 120:19
30:11,20 32:1	operation 9:10	56:9	parties 13:18	120:21
35:9 36:3	51:21 76:2	owner-occupied	123:9	phone 24:19
37:20 40:7	115:12	56:6	pass 59:15	34:18 50:20
41:11 42:12	opinion 30:10	owner's 9:10	passed 95:2	62:14 73:15
43:5 44:5,10	opportunity 7:4	owners 67:1	paths 111:14	89:10 108:3
45:9 51:8,9	80:10 98:6		112:1	photo 49:12,17
54:6 56:10,15	99:7 100:18	P	patterns 51:19	photograph
57:13,18 61:17	oppose 23:9	P 3:1	Pause 25:7,22	59:8
61:18,21 63:3	36:16 37:22	p.m 1:4 3:3 6:2	40:21 104:20	photographs
63:16 66:13	opposed 17:5,12	43:2 46:2,17	paved 82:2	106:8
67:4 69:19	36:18 40:13	47:6 48:2 54:2	pay 29:13,22	phrase 113:4
70:2,8,19,21	opposite 71:22	63:19 64:8	peak 68:19	physical 15:3
72:6 73:2	opposition 7:11	66:2 79:2 93:2	people 11:2,3	pick 43:13
74:17 75:3	8:3,4	118:2 119:2	23:12 26:13	picture 36:21
77:19 84:2,8	ordinance 16:6	120:20 121:9	27:9 35:19	pieces 22:6
85:19 88:22	16:17 20:14	122:8	37:2,3 108:17	39:19
90:20 94:15	28:19 29:9,11	Pacheco 46:20	percent 13:9,14	place 22:17
96:15 102:4	29:12,22 33:10	63:22 121:1	59:17 68:7	25:17 55:17
106:3 107:15	49:9 51:12,17	PAGE 2:2	perfect 10:6	57:4 80:14
110:9 111:4	54:17 75:12,21	paint 33:18	perfectly 88:15	98:5,6 102:8

<p>110:12 plan 49:14 58:12 58:20 67:8 77:8 89:5 97:13 98:12 101:10 106:11 110:20,22 112:16,21 planning 29:19 74:14 plans 29:18 48:17 50:1 72:4 74:10,13 95:7 111:11,19 plays 30:9 please 4:20 11:18 12:2,14 13:3,11 14:2 18:21 31:1 37:19 41:13 44:12 49:19 50:8 52:15 54:9,14 62:7 66:16 75:8 77:20 79:14 91:20 94:3 104:19 116:12 pleased 7:14 plenty 57:2 plural 101:13 plus 87:9 point 8:6 9:4,13 10:22 11:10 14:19 15:17 16:1 31:10 39:15 100:17 112:19 policies 29:19 policy 16:10 24:8 population 29:15 porch 67:14 82:1 porches 69:9,9 portion 13:13 20:2 39:17 50:7 97:18,20</p>	<p>98:10 101:1,14 110:8 portions 101:4,9 101:13 position 34:5 possible 23:7 possibly 46:8 98:1 poster 56:17 posting 46:16 63:18 120:19 potential 68:13 potentially 70:6 106:16 practical 11:15 12:11 practically 12:8 predetermined 90:4 predimensioned 86:8 preexisting 15:7 15:11,12 16:4 17:7 102:21 prejudice 41:3 41:12 42:2 55:12 118:8,9 118:20 premanufactu... 91:10 prepared 52:10 76:11 91:11,14 present 4:10,12 4:14,16,18 99:3 101:20 112:17 presentation 9:21 36:16 54:13 57:11 presented 19:1,3 19:12 90:1 109:22 presenting 101:6 presently 29:6 97:17 preservation 15:21</p>	<p>preset 81:8 pressing 24:20 24:20 34:19,19 50:21,22 73:16 73:17 89:11,11 108:4,4 prevent 81:20 prevents 28:19 previous 12:13 18:8 19:21 24:13 previously 8:8 13:5 17:19 62:19 108:18 primary 31:11 59:7 84:17 prior 47:7 64:9 103:1 121:10 prioritizing 28:9 privacy 11:13 13:16 23:7 private 13:21 14:18 18:10 33:21 probably 18:5 31:10 112:20 problem 62:19 74:10 problematic 80:4 problems 26:8 30:4 procedure 41:4 63:1 proceeding 111:12 proceedings 3:17 122:8 123:7 process 26:13 29:10 31:15 87:3 109:2,11 109:17,18 110:21 produce 81:1 program 103:12 project 6:22 8:7 18:21 22:10</p>	<p>24:11 67:1 99:20 projection 69:7 projects 69:6 prominent 101:22 property 9:11 9:15 13:10 15:5,14,20 19:5,15,17 20:3,5 21:11 21:17 31:19 48:12,19 51:15 54:11 59:1 80:16 84:16 94:13,19 95:1 95:3 97:21 108:14 109:14 proponent 6:8 54:6 62:6 90:1 91:8 103:10 104:3 110:7 111:18 113:7 119:10 proponent's 89:5 proportions 25:16 proposal 22:16 37:22 60:16 103:21 114:11 propose 61:14 112:11 proposed 6:22 8:5,11,15 9:2 14:6 16:9 19:2 19:3,20 22:10 22:18 23:10 49:15,20 50:1 50:9 52:3,8 61:12 73:1 76:10 91:3,13 115:16 116:3 proposing 35:14 35:16 49:1,2 70:8 81:14,22 protect 29:17 protects 36:11</p>	<p>proved 80:18 provide 23:7 61:13 provided 7:6 8:19 24:1 67:22 provision 100:5 provisions 18:12 20:13 94:18 proximity 8:15 59:1 public 3:19,21 3:22 4:1 16:16 22:7 23:16,17 24:8,16,16 26:10 27:6,12 27:13 30:21 32:4,6,19,22 33:14 34:3,14 34:15 39:14 50:15,16,18 51:8 62:10 73:9,12,13 89:2,7,18 107:21,21,22 109:21 111:8,9 119:8 123:4,16 purchased 80:8 purely 49:4 purpose 11:15 16:17 29:9,11 29:21 purposes 96:8 98:9 107:9 pursuant 3:10 94:17 pursuing 103:10 106:2 purview 22:21 24:9 32:20 pushed 20:5 pushing 68:21 put 35:14 49:7 58:22 87:18 99:4</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quality 23:10</p>
--	---	--	--	---

querying 83:11	108:2,3	115:16	regulations 15:2	renovation
question 17:4	raised 6:21 7:2	recognize 28:14	related 32:8	15:16 20:20
18:22 26:12,12	7:16,17 9:5	104:9	103:3 123:8	90:1
26:19 58:11,21	16:11 25:10,21	recognized 30:4	relating 32:8,15	reopen 34:13
70:6 72:9	36:10,12 51:7	93:17	relation 57:22	repairs 20:14,16
74:20 85:20	62:10	recognizes	relationship	20:16,18
96:11 97:11	raises 17:19	21:19	8:16,21 69:17	repeat 71:14
104:2 109:8	raising 68:19	recollection	relatively 68:19	represent 16:19
110:11,13	Ratay 46:20	8:11	69:16	representing
questionable	63:22 121:1	recommenda...	relevant 58:4	48:12
30:9	ratio 33:20	41:1,7	relief 15:18,19	represents
questioning	rationale 29:16	reconsideration	16:2 18:5	20:21
17:4 19:4	86:16 91:12	25:18	20:22 21:15	request 2:5
questions 9:20	ratios 86:9	record 6:16	23:13 32:18	43:18 55:11
16:21,22 18:18	reached 7:10	34:10 72:4	50:12 51:11	114:16 118:7
20:10 22:5	read 9:3 25:13	93:12 123:6	53:3 54:15,15	requested 18:7
50:14 58:6	29:21 39:16	recorded 3:14	67:18 71:18	23:14 33:16
69:20 70:3	57:16 88:6,17	77:1	72:10,14,15,16	83:1
72:7 73:8 82:9	104:18	red 13:4 49:12	72:19 73:4	requesting 18:5
84:11 88:1	reading 56:7	49:20 67:14	75:11,14,17	20:22 21:15
96:9 97:9	57:15	redo 20:17,17	78:9 82:17	43:12 46:7
99:10 102:4	reads 104:17	reduce 14:8 34:9	90:22 91:4	67:18 71:18
107:19 109:5	ready 10:6	85:17	105:8,9,9,16	require 17:8
quickly 10:12	75:10,10 113:9	reduced 8:14,17	105:17 111:17	18:11 55:6
17:14	Real 8:9	10:19 12:6,10	113:8 114:13	72:18 95:11
quite 99:14	realize 32:17	13:9,13 14:17	114:16,22	98:22 104:12
	realized 36:7	18:7	115:2 116:2,6	110:6
	really 11:15	reduces 85:10	116:22	required 39:20
R	13:19 14:17	reducing 18:6	relies 105:12	48:16 91:4
R 3:1	21:6,10 22:20	86:10	relieved 116:6	requirement
radical 27:6	26:22 27:2,10	reduction 18:9	relocate 49:7	15:6 57:19
Rafferty 93:8,9	36:14,14 37:9	21:13 33:8,11	reluctance 34:5	67:12 70:22
93:11,13,19	55:17 69:10	33:21 34:5	rely 105:18	71:13 81:12
94:4,16 96:22	73:4 74:13	reductions 14:6	relying 55:4	82:19 83:1
97:4,7,16	91:2,9 103:7	Reed 38:11	remaining 15:18	95:14,20
98:16 99:11,22	105:8 106:13	reference 97:1	18:9	requirements
101:8 102:18	106:14 107:6	references 96:18	remains 14:18	14:14 15:15
103:9,11 104:9	rear 8:16,21	105:2	remodeling	18:13 31:18,20
105:1,6,11	12:11,12 13:7	refers 14:22	38:10	46:19 51:12,17
106:4,16	13:13,14 56:21	reflect 46:16	remote 1:4 3:12	63:21 75:12,21
107:14 112:5,6	59:13 68:9	63:18 101:14	4:2	84:14,15 91:1
112:7,12 117:3	97:15	120:19	removal 81:22	114:22 115:8
Rafferty's	reason 30:7	refresh 8:10	87:4	120:22
113:18	101:8	regarding 51:14	remove 82:3	requires 22:1
raise 8:1 23:18	reasonable 62:5	regards 35:22	removed 11:22	55:8 95:10
24:18,19 34:16	90:10	registered 93:16	render 19:8	rereading 31:3
34:18 50:20,21	reasons 24:11	Regular 2:7 5:2	rendering 8:19	reservations
73:15,16 87:16	52:3 76:6	43:5 45:10	19:14	74:14
89:9,10 102:16				

residence 23:10 105:14	40:6 43:20 44:14 46:14	S 3:1	111:22 112:6,8 113:1,5 114:15	43:16
residential 29:17 55:16 56:20	48:15,20,22 49:8,14,17 50:2,2 51:14	safe 58:18	115:22	Sereda 119:11 119:13,15,18
residents 6:21 56:22 66:22	57:5,18 58:3 59:8 60:6,8	safely 102:14	second- 116:5	119:20 120:1,4 120:9,16 122:3
Resiliency 14:14	67:7 68:11	safety 52:2 76:5 115:15	second-floor 13:5 95:6 107:8	serious 25:17
resolve 76:21	71:2,17 74:9	Sakos 22:9	secondary 102:1	serve 95:18 98:1
respect 9:10,16 33:6 67:6 103:19	74:19 75:18 79:11,22 80:3 80:5 82:20	Sarah 46:7	section 56:2,7 57:15 67:20 73:4 77:13	Services 46:21 47:1 64:1,3 121:2,4
respects 105:16	83:4 88:22	satisfied 103:20	91:1 94:18	set 69:13 86:9 87:17 123:12
respond 27:20	89:17 90:18,20	saw 10:15,16	96:12 97:1,1 97:12 105:1	setback 48:16 48:20 51:15
response 7:7 104:4	94:9 97:16	saying 10:13 22:14 23:4 24:22 34:21	114:8 115:3,6 115:20	59:4 60:22 67:7,7,11,12 67:13,15 68:15
responsibility 33:15	98:16 102:18 103:3 104:9,21	says 23:18 24:18 34:16 50:20 56:2 73:15	sections 51:12 52:7 68:9	69:1,4,10 71:17 72:10,11 73:3 75:13
rest 24:13 80:11 80:12	108:21 110:14 111:5,5 120:13 120:15,16	82:17 89:9 101:8 108:2 113:13,22	75:12,16 105:2 115:1	81:11,16,17 82:2,18,19 90:5 91:4
restriction 106:1	122:3	scheme 39:19	see 11:3,4 12:7 13:12 17:6 18:2 19:1,3,15	setbacks 60:19 91:2
results 21:13	right-hand 67:10 106:21	scope 60:11	31:5,18 34:5 36:15,21 40:17 49:12,14,16	sets 29:10
return 46:22 59:1 64:2 100:19 101:22 121:3	right-side 48:21 51:15 68:15,17 71:17	Scott 74:1,1,5,5 74:7,9,20,21 75:6	60:11,21 61:8 62:7 67:10,14 89:21 95:7 99:14 106:4,8 106:21 111:12	setup 82:6
Review 61:6	Rindge 38:10	scratch 75:18 85:6	115:1	shaded 106:22
reviewed 102:19	road 2:7 37:10 43:6 46:5 80:9 103:22 106:17	screen 23:7,18 24:18 34:16 50:19 73:14 76:17 82:22	seeing 20:4 32:7 32:9 56:3 110:2	shadow 81:20
revise 39:18	roll 3:20	89:8 108:1	106:21 111:12	shallow 68:19
revised 8:2 23:6	roof 12:7,10 13:12 36:10 68:3,6,9,19	scroll 48:17	seeking 50:11 54:15,15 81:12 82:17 105:9	shape 32:9,15
Richard 6:9,10 6:13,16 10:3 10:13 14:3,5 17:13,14,16,21 18:4 20:19 23:20 24:12 27:20 28:3 33:2,4,6 34:12 40:11,16 41:6 42:3	room 11:5 12:17 26:18 97:14 106:17	second 4:19 6:13 12:6,7 19:13 21:9 22:18 24:3 36:4 48:6 49:3,21 50:4,5 51:10 62:9 69:22 70:7 75:8 80:19 84:20 85:3 87:11,19 88:8 88:19 96:21 100:16 101:1 102:20 106:14 106:18 110:3 111:2,13,14,18	seeking 20:4 32:7 32:9 56:3 110:2	Shea 2:7 43:6 46:5
ridge 68:22	rooms 49:4		seeks 103:17	46:5
right 8:12 10:5 11:11 14:8 22:4 26:6,9 27:7,17 28:21 34:11 36:8,20 37:10 38:11,18	Roszler 46:7		seemingly 40:13	sheet 58:12 76:17 116:4
	route 37:8		sense 60:2 86:17 90:11	sheets 76:20 77:1
	ruling 47:3 64:5 121:6		sent 36:20	shift 81:14
	run 50:4 74:11		sentence 32:17	Shimon 25:11 25:12,12 30:14 30:14,18,22 35:3 37:18
	Rura 25:11,12 25:12 30:14,15 30:18,22 35:3		sentiment 40:5	shortly 66:11
	S		separate 97:14 114:16	show 19:12 20:7 50:10 60:12 61:8 106:12 111:12,20
			separately 82:18	showing 10:18
			September	

12:15 19:10,14 37:8 50:1 shown 59:7 107:7 110:22 113:5 114:15 115:22 shows 18:21 98:12 106:12 sic 8:14 37:18 side 8:12,14 10:19 11:14,19 12:3 13:15 35:10 48:15 49:8 51:14 67:7,10,11 68:11,12,16 69:1,10 70:16 71:3,17,22 75:13 81:13,16 81:17,19 82:1 82:7,17,19,22 83:4,5,6,8,13 83:20 88:3 90:5 91:2 106:20,21 107:3 sides 11:11,17 68:5 sign 42:5 45:5 46:16,18,22 63:18,20 64:2 120:19,21 121:3 significant 22:19 40:15 85:7 87:13 similar 40:1 81:7 102:21 110:13 simple 114:10 simpler 20:16 simply 96:7 single 96:14 113:14 single- 22:13 84:18 85:16 105:3 113:19 single-family	22:14 24:7 28:21 80:11 81:1 88:8,17 88:19 96:18 sir 42:11 48:6 57:12 sit 4:21,22 site 12:5,9 49:14 67:8 sited 55:16 sits 81:15 sitting 3:4 6:3 31:15 43:3 46:3 48:3 54:3 66:3 79:3 93:3 118:3 119:3 six 2:5 43:12,15 43:17,19 size 8:11,13,15 15:6 28:14 36:1,3,4,6 71:10 90:11 91:10 skylight 11:22 59:3,13 skylights 60:14 slab 103:16 Slate 23:2 25:6,8 25:9,21 30:16 35:4,4,10 37:20 slide 10:5,6,7,18 11:18 12:2,14 13:3,11 14:2 18:20 49:19,22 50:8 slight 17:18 21:1 33:21 69:5 slightly 12:16 slot 63:9 smack 27:7 small 13:1,20 27:8,19 36:8 67:13 68:15,16 72:13 89:21 smaller 10:21 29:7 80:14 soil 32:8,15	sold 31:13 solution 80:21 someday 101:19 sorry 6:7 26:12 30:14 40:8,11 43:9 44:1,16 45:9 58:9 60:6 61:10 62:14 71:14 74:3 83:11 94:6 96:15,17,21 99:9,13 104:18 104:21 106:10 109:7 113:10 114:6 sort 29:10,13 36:11,11 70:5 86:17 106:22 109:5,11 110:16,17 sound 23:8 80:1 south 81:15,17 82:1 space 11:8,9,16 14:18 16:2 17:7 18:10 21:13 33:22 68:10 69:7 80:19 81:20 82:4 84:19 85:2 86:8,9 87:6,9 95:7 96:6 97:22 98:7,17,21 99:4,16,18 100:2,7,7 101:19 103:4,5 103:8,12,17 112:18,22 speak 4:4 6:8 23:17 24:17 25:2,8 26:3 34:15 35:1,8 38:3 50:18 51:4 66:7 73:13,21 79:6 79:11 86:21 89:7,15,20	93:7 94:10 106:9 107:22 108:8 SPEAKER 79:21 92:11 speakers 24:21 34:20 51:1 73:18 89:12 108:5 speaking 3:19 20:21 35:6 59:20 110:5 special 2:5 17:5 17:12 18:14 31:15 43:12,18 44:5 48:14 50:12 51:10,13 51:16 52:6 59:2,22 60:20 75:20 76:8 77:6,12 96:13 100:19,22 102:1,1 103:20 105:12,17 114:13 115:6 115:20 specialist 74:22 specific 39:7 62:13 specifically 8:9 20:22 51:13 83:8 113:5,13 115:3 spiral 110:17 spoke 7:12 square 14:8 18:1 22:15 24:6,8 68:4 95:15,17 95:18 99:5 100:6,16 square-foot 98:4 99:6 101:12 ss 123:3 Staff 4:5 24:21 25:1 34:20,22 51:1,3 62:3 73:18,20 74:22 89:12,14 108:5	108:7 stair 11:20,21 50:3 103:4 staircase 98:2,6 102:21 104:3,7 106:18,18 110:17,19 staircases 102:20 104:11 104:15 stairs 108:18 111:2,3 stairway 49:2,5 stairwell 21:4,7 49:21 start 4:5 82:10 started 80:16 starts 24:5 state 3:19 23:5 29:9 stated 16:6 33:9 113:20 statement 29:3 121:9 statements 47:6 52:13 64:8 77:4 91:18 116:10 statute 55:8 statutory 46:19 63:21 120:22 stay 39:4 step 40:18 43:10 Stephen 1:11 4:7,9,11,13,15 4:17 25:6,11 26:2,17 35:3 38:20 39:12 41:8,10 42:5,6 43:8,15,22 44:4,7,9 45:5,8 46:10,12 48:6 51:6 58:12 61:21 62:7 63:6,13 66:13 66:17 67:4 69:20 70:2,11 70:17,20,22
--	---	---	--	--

71:4,6,8,10,12 71:15,20 72:1 72:6,12,18,22 73:7 75:1 76:14,19 77:14 77:17 78:11 82:11,13 83:10 83:18 88:3,11 88:12 93:21 108:10 111:7 113:17 114:6 120:6,11,14 Steve 56:1 66:17 70:14 112:4 Steven 1:7 3:4 4:9,10,21,22 5:2,3,5 28:17 38:19 42:9,11 42:14,17 43:3 44:20,21 46:3 47:13,14 48:3 52:19,20 54:3 64:13,14 66:3 70:14,19,21 71:1,7 78:1,2 79:3 83:9 90:16 91:22 92:1 93:3 112:4,9 114:4 114:5,20 116:16,17 118:3,11,12 119:3 121:16 121:17 122:6 stock 28:9 storage 95:18 97:21 98:1 100:1,7 101:17 106:15 110:4 storm 102:13 story 85:3 87:11 87:19 88:8,19 straightforward 103:13 strange 26:7 57:4 99:21 street 2:3,8,9,10 2:11,12,13,14	6:6,7,17,18 8:13 10:11 22:9 23:4 27:17,18,19 35:11,19 37:6 37:7 38:11,12 38:22 41:13 48:8,11,13 52:9 54:5 55:17 56:19 57:6 66:6,8,10 74:2,7,18 76:11 79:6 80:5,9 89:4 91:14 93:6 94:14,19 108:12 116:4 118:6 119:5,15 street-facing 10:19 11:14 stress 15:17 stretched 12:4 strewn 76:20 strongly 23:9 37:22 89:4 structural 84:22 86:21 structure 15:7 15:13,21 48:19 48:22 55:9,14 55:15 56:22 75:16 81:1 85:18 86:22 87:13 90:2,3 91:8 94:20,21 95:4,9 96:14 97:7 99:3 101:1 106:6 structures 32:16 39:7 48:18 55:1,19 69:17 86:7 105:20 stuck 30:13 31:5 32:14,17 39:17 39:19 style 81:5 submittals 47:4 64:6 121:7	submitted 7:11 52:13 77:2,5 91:18 111:11 116:10 substantial 27:5 32:6,11,19 33:13 34:3 84:16 91:6 substantially 16:16 Substitution 55:4 suggest 60:5 61:6,14 119:6 119:21 suggested 104:15 suite 13:22 80:15 Sullivan 39:16 sum 69:10 summarize 22:6 summary 67:5 Summer 6:17 sums 50:12 support 8:7 24:10 57:8 85:1,2 114:20 supported 54:22 supporting 47:6 52:12 64:8 77:4 91:17 116:9 121:9 supportive 8:3 supports 87:19 suppose 99:19 sure 10:3,4 14:21 16:5 17:13 34:10 41:3 57:14 58:18 74:21 75:6 76:21 79:15 108:21 109:1,1 surrounding 96:4 swear 77:9 system 7:22	T table 13:20 take 4:5 41:4 42:7 43:10,19 61:7 67:8 75:10 77:10 90:11 98:17 100:4 109:21 taken 3:20 13:9 29:20 takes 85:7 talk 60:12 62:7 115:4 talked 81:4 talking 23:12 61:16 62:2,4 105:3 talks 115:3 tea 39:16 Teague 89:4 technical 26:15 32:3 television 3:15 tell 19:19 54:14 term 28:20 112:17 terms 12:22 28:8 36:18 69:16 85:16 testimony 26:10 39:14 51:8 89:18 111:9 text 26:14 texted 106:5 texting 40:17 thank 5:4 6:15 7:3 16:18 17:13 18:16,17 20:8 21:21 24:3 25:19,20 28:1 30:11,22 31:2 32:1 34:12,13 38:2 38:6,16,18 39:1,10 40:7 41:15 42:3,4 42:12 44:18,22 50:13 53:4,5	54:10 58:13,21 63:2,3 64:21 65:1 67:1,3 69:19 70:13 72:5 73:2 74:8 75:4,5 78:1,11 78:12,13 82:8 84:9 85:19 87:20,21 88:14 88:22 90:15,18 90:20,21 92:10 92:11 94:1,15 94:16 96:9 97:9 101:2 106:3 107:10 107:17 108:13 111:5 113:2 114:21 117:2,3 117:5,6 120:11 120:16 121:14 121:16,18,20 122:1,3,5,6 Thanks 39:10 62:13 73:7 that's 9:21 20:6 105:16 they'd 112:10 thick 81:10 thing 17:3 20:6 33:4 37:14 102:14,17 103:3 104:12 things 9:9 15:4,9 17:6 22:12 23:12 27:2 29:14 36:20 37:3 100:3 119:8 think 13:1 14:3 18:1,12 20:16 20:21 23:21 25:13 26:9 27:3,15 28:18 28:21,22 29:8 29:12 30:5,9 32:2,22 39:13 39:21 40:18 55:18 56:16,17
---	---	---	--	---

59:6,17 60:4 61:15 62:2 66:10 70:17 73:3 74:10,12 82:16 86:14,14 86:19 90:10 91:7 96:1 100:15 103:3 103:19,19 104:11 105:20 106:7 107:6 109:16 110:5 112:9,19 114:3 thinking 97:22 98:21 99:5 100:15 112:15 third 22:19 36:6 36:16,16 68:2 68:4 69:2 70:15 72:13 88:9,21 third-floor 68:10 77:8 thought 98:5 thoughts 103:2 three 4:3 25:2 28:12 35:1 37:19 50:10,11 51:4,14 72:17 73:21 89:15 108:8 three- 105:10 115:5 three-family 94:20 105:4,14 105:15 three-unit 96:13 96:20 THURSDAY 1:3 time 3:22 4:1 6:20 9:17 11:7 16:18 19:5 24:22 26:13 34:21 46:17 51:2 54:22 62:19 63:8,9 63:19 73:19	78:11 85:8 87:5 88:15 89:13 107:9 108:6 113:11 120:20 tiny 56:21 today 67:18 94:21 103:13 Tom 48:12,19 toned-out 110:4 tonight 10:2 48:8 top 77:10 topic 29:5 topography 15:4 32:9,15 total 14:8 20:17 20:17 69:10 81:11,13 82:7 82:19 83:7,22 84:8 90:6 91:2 100:15 totaled 83:16 totally 90:16 touched 86:20 traffic 36:19 37:6 51:19 76:1 115:10 transcript 3:16 123:6 translucency 11:2 trapped 68:5 treated 98:11 triangle 72:13 trouble 30:16 75:1 trucks 37:7 true 123:6 try 10:14 68:8 79:19 80:2 trying 10:15 20:7 39:15 60:12 81:4 82:5 84:18 85:16,17 87:7 94:7 109:10 turn 9:18 37:10	two 10:20 19:6 20:22 28:12 30:21 31:8 33:19 40:13,14 48:18 50:5,9 56:21 68:11 69:8 71:5 102:7 106:5,6 106:7,7,12,20 110:16 111:2 111:14,22 112:10 114:7 two- 27:7 105:11 two-family 56:22 67:5 96:14,19 105:3 105:10,17 113:14,19 115:4 two-story 101:5 typically 17:8 <hr/> U Uh 83:10 Um-- 99:12 unable 35:5,7 uncomfortable 100:9,21 underlying 29:21 underpin 87:17 underpinned 85:1 underpinning 87:13 understand 9:1 9:11 16:10 17:3 33:12 34:4 85:21 103:6,21 106:11 108:15 109:2,10 112:14 understanding 14:22 109:12 understood 40:16 99:15 110:1	underutilized 55:1,14 95:5 undue 29:14 unfortunately 55:3 86:6,10 95:2 UNIDENTIFI... 79:21 92:11 unique 15:10,14 unit 33:8 69:7 94:17 95:8,14 95:16,19,21,22 96:8 97:4 98:8 98:11 99:7 101:16 102:7 105:14,19,21 106:1 108:15 108:18 109:10 111:22 114:8 units 16:11 28:7 28:12,14 29:7 33:8 34:6 56:22 61:11 74:12 100:5 105:22 Unity 80:22 91:15 unleveled 87:5 unmute 24:20 24:21 34:19,20 50:21 51:1 73:16,18 89:11 89:12 108:4,5 unrealistic 37:10 unresolved 99:21 unsure 32:20 unusable 68:5 unusual 61:1 updated 8:4,20 updates 7:7 9:19 9:21 18:21 upload 10:5 upper 10:22 21:2 49:12 102:7 upstairs 95:19	101:16 urge 25:17 urges 89:5 usable 18:10 usage 57:1 use 3:12 9:6 13:21 15:8,13 15:22 16:13 21:18 29:16 37:3 52:3 55:1 55:22 57:1 68:8 100:13 101:13 105:15 106:14 107:8,9 109:13 110:7 112:17 115:6 115:16 useable 68:13 useful 49:16 uses 16:7 51:22 57:22 76:3 115:13 usually 56:15 105:13 utilization 14:14 utilize 96:7 utilized 98:22 <hr/> V valid 102:18 Van 24:1,4 variance 17:5,8 17:11 18:7,11 27:11,14 30:7 30:8,12 31:4 31:12,21 33:16 39:20 44:4 55:22 59:22 81:12 82:7,10 84:15 89:20,22 90:7 91:5,12 92:8 109:3 114:9 119:9 variances 34:8 various 76:20 vastly 22:17 vehicle 100:2 vehicles 9:8
---	--	---	--	---

100:14 ventilation 58:14 59:18 verbiage 55:5 verify 4:6 Veronique 119:12 versus 96:14 video 3:14 view 48:22 viewing 12:8,12 13:9 violation 17:18 33:9 67:13 Virginia 4:20 Virginia 1:8 3:4 4:17,18 6:3 28:5,6 31:11 38:7 41:17,18 42:16 43:3 44:18,19 46:3 47:11,12 48:3 52:15,16 54:3 57:21 58:4 64:11,12 66:3 78:5,6 79:3 86:20 87:20 91:20,21 93:3 96:11,17 97:3 116:12,13 118:3,9,10 119:3 121:12 121:13 visual 23:8 voice 38:15 41:13 44:12 47:9 52:15 64:11 77:20 91:20 116:12 118:8 121:12 vote 40:4,12 41:13,22 44:12 45:3 47:9,18 52:15 53:2 64:11,20 77:20 78:8 91:20 92:7 116:12,21 118:8,18	121:12,22 votes 3:19 <hr/> W <hr/> waiver 46:18,19 46:22 63:20,21 64:2 120:21,22 121:3 Walden 2:10 66:6,7,10 74:2 74:7 76:11 walk 7:19 9:18 17:11 63:13 Walker 74:1,1,5 74:5,7,9,21 75:6 wall 48:21 68:10 69:3 walls 81:9 want 7:3 9:4,13 11:10,12 19:11 30:15 31:10 34:5,10 38:15 39:2 56:12 58:12,17 60:11 66:19 91:11 101:9 102:16 108:21 109:1,1 110:7,20 120:2 wanted 19:11 38:6,9 57:13 66:11 68:8 wardens 29:12 wasn't 28:12 75:19 waste 55:15 85:10 way 12:5 13:6 21:6,7,10,12 31:7 37:3 82:10 86:17 88:6,16 89:21 95:6 99:9 100:11 101:2 102:13 108:21 111:17 113:4 113:20 119:7 ways 29:21	we'll 39:14 44:14 51:8 70:1 73:5 80:15 89:18 90:21 91:4 we're 10:18 11:10 13:14 15:18 19:18 20:6,21,22 21:11 26:9 27:3 29:12 30:20 37:1 44:6 45:8 49:1 50:3 58:16,17 61:5 62:4 66:9 66:10 68:20 69:11 75:3,14 80:13 81:4,12 82:3 86:19 98:9 100:22 102:16,16 104:22 106:2 109:20 113:9 113:18 114:6 115:5 119:7 we've 8:5,19 13:9,13 27:2 28:10 32:3 77:8 80:9,21 87:3 we're 10:6 weather 102:13 webpage 4:2 week 47:1 64:3 85:13 121:4 weeks 85:13 weighing 33:12 weight 87:10 welcome 3:7 61:3 92:12 welfare 52:2 76:5 115:15 well-spoken 38:7 wells 72:17,18 went 108:18 weren't 19:10 weren't 104:15	Westley 8:13 9:1 22:11,14 23:3 23:5 25:13 27:17 35:5,7 36:9 37:9,16 38:6,12 what's 10:2 whereof 123:12 white 20:2 wide 71:18 77:9 77:10 widened 12:16 wider 37:12 width 71:16 90:4 wife's 80:6 William 1:9 3:5 6:4 window 10:20 10:21,22 11:1 11:6,8,21 50:3 50:10 59:6,8 59:11,12 72:17 72:18 windows 8:13 11:11,12,14,16 33:17 48:15 49:2,3,8,13,15 49:17,20 50:1 50:5,11 51:14 58:19,22 59:2 59:22 60:14,19 60:22 62:5 73:5 77:13 98:14 99:4,16 103:5 106:6,7 106:13,20 107:5 wish 24:17 50:18 73:13 89:7 107:22 wishes 6:8 23:17 34:15 79:6 93:7 wishing 66:7 withdraw 41:12 55:11 60:2 112:13 118:7	withdrawal 60:5 118:8 withdrawn 41:2 42:1 118:19 witness 123:12 witnessed 30:3 witnessing 55:2 wondering 60:1 96:18 wood 49:1 word 77:11 101:13 words 56:5 wordsmith 114:3 work 7:4 11:21 21:12 52:8 76:10 91:13 98:18 116:3,6 120:7 workers 39:6 working 21:7 106:11 works 41:8 86:18 97:13 worry 62:18,20 120:15 worst 81:19 wouldn't 30:7 wrap 25:3 35:2 37:19 51:5 73:22 89:16 103:2 108:9 122:4 wrong 14:12 28:18 44:1 76:18 <hr/> X <hr/> X 2:1 <hr/> Y <hr/> yard 12:12 48:20 56:21 67:7,7,11,13 68:15,16 69:1 69:10 72:9,10 72:16 73:3 75:13 81:11,13
--	---	--	---	--

82:2,7,19 90:5 91:2 yards 83:13,20 yeah 5:4 10:1 14:4 17:2 18:4 20:12,19 26:5 29:5 30:17 31:8,9 39:2 40:3,16 41:10 44:9,13 46:10 54:10 58:5,10 58:15 70:20,21 71:1 72:15,22 76:19 83:18 84:2 87:2 90:13 99:12 101:2 102:6 109:9,19 120:6 120:14 year 44:3 80:8 years 40:14 80:6 95:2,2 Yep 28:17 33:5 38:4 41:5 42:12 45:7 54:19 56:12 57:13 61:17 62:9 66:15 69:22 72:20 74:6 77:19 82:13 83:15,17 84:5,10,17 86:2 87:22 89:1 94:12 97:6 110:18 114:3 119:14 120:3 Yup 17:16 108:13	21:19 22:1,21 23:13 26:18 29:9,10,11,12 29:22 33:10 49:8 54:17 56:1 70:6 103:1 106:1 113:20 Zoom 23:18 24:18 34:16 50:19 73:14 89:8 108:1	159246 43:19 16 69:6 163 2:12 93:5 94:14,19 116:3 17 24:4 48:11 123:18 17' 13:6 19 84:1	84:6 90:5 91:3 91:10 3,000 24:6 3/8 81:11,13 82:18 84:6 90:5 91:3,11 30 2:5,7 13:9 43:6,8,11,18 46:5 31 2:13 118:5 35' 68:22 72:21 72:22 359 2:10 66:6,9 74:2 76:11 360 68:3 363 74:5 374 95:18	501 100:16 50s 87:3 53H 10:11 54 2:9 55 2:3 6:6,18 23:3 35:11,19 41:12 5557 26:3
76:19 83:18 84:2 87:2 90:13 99:12 101:2 102:6 109:9,19 120:6 120:14 year 44:3 80:8 years 40:14 80:6 95:2,2 Yep 28:17 33:5 38:4 41:5 42:12 45:7 54:19 56:12 57:13 61:17 62:9 66:15 69:22 72:20 74:6 77:19 82:13 83:15,17 84:5,10,17 86:2 87:22 89:1 94:12 97:6 110:18 114:3 119:14 120:3 Yup 17:16 108:13	0 01/11/24 2:4 02/10/22 2:6 02139 1:6 04/07 44:3,4 04/25 46:12 08:36 122:8	2 2 3:10 48:12 95:16 20 18:1 20' 81:12 83:7 83:16,22 20,2023 91:15 2019 95:12 202 2:9 54:5 2020 76:12 2023 3:10 43:20 2024 1:3 3:7 44:11 46:14,15 46:17 47:9 52:10 63:17,19 116:5 120:18 120:20 121:12 123:13 2025 64:11 2028 123:18 22 3:15 22nd 123:13 241 2:8 48:7,12 52:9 245 6:17 25 18:1 46:13,15 46:17 47:9 63:6,7,17,19 64:11 251115 41:12 257228 66:6 257728 43:6 46:5 258026 48:7 26 22:11 89:4 28 1:3 3:7 19:1 23:2	4 4 18:21 43:22 44:1,2 4,000 24:7 4,000' 22:16 4.21 58:1 115:6 4.22 54:17 55:5 55:8 56:2,7 57:15 58:1 105:1,8 106:2 113:12 115:2 4.22.1 94:18 95:10 96:18 105:1 115:2 43 2:5 46 2:7 48 2:8	6 6 2:3 9:1 23:2 24:20 34:19 35:4 43:20 46:17 50:22 63:19 68:21 73:17 84:3 89:11 108:4 120:20 6:00 1:4 3:3 6:03 6:2 6:30 62:16 6:50 43:2 6:54 46:2 6:56 48:2 606 119:13 61 22:9 617 26:2 66 2:10 67 38:21
120:3 Yup 17:16 108:13	1 1 6:20 7:9 19:3 95:17 97:12 1,500 22:15 1.7' 67:11 10 25:13 115:2,2 10.22 115:1 10.30 91:5 10.40 51:13 10.43 76:8 115:7 115:20 10.67' 83:2 11 46:8 11/17/22 76:16 118 2:13 119 2:14 12 52:10 12' 12:11 13:14 70:18 71:2,5 71:11,18 72:1 77:9,10 12.5' 83:1,7 12.5.' 83:8 125 2:11 79:5 80:8 91:14 14 116:4 15' 70:20 71:12 156 108:11	3 3 81:11,13 82:18	5 5 18:21 22:11 37:15 38:12 47:6 64:8 121:9 5' 10:20 13:15 17:20 68:7 5.31 51:12 75:12 91:1 5.5' 48:21 5.7' 67:12 50 68:6 500 95:17	7 7 44:11 76:12,12 7' 13:7 17:19 68:6,7 87:6 7.5 67:12 81:18 83:14 7.5' 48:20 83:20 7:03 54:2 7:18 66:2 7:29 118:2 7:39 79:2 7:56 93:2 75 2:14 13:14 119:5 79 2:11
Z Zero 81:3 zippo 98:15 zone 55:18 61:12 zoning 1:1 3:8 3:13 9:16 15:6 16:6,15,17	8 8 35:7 38:6 59:17 68:21			

8' 13:7
8.22.1 18:14
8.22.2 18:14
8.22.2.c 51:13
73:4 75:17,18
77:13
8.22.2.d 67:20
69:12 75:16
8.22.3 18:13
8:30 119:2
831 1:5
875 100:16

9

9 24:20 34:19
50:21 73:16
79:15 89:11
108:4 120:5,7
120:12,18,20
121:11
90 89:4
900 95:15 98:4
99:6 100:6
101:12
93 2:12
95 80:4