

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY MAY 23, 2024

6:00 p.m.

Remote Meeting

via

831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Jim Monteverde, Chair
Steven Ng, Vice Chair
William Boehm
Fernando Daniel Hidalgo
Carol Agate
Michael LaRosa

City Employees
Stephen Natola



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I N D E X

CASE	PAGE
THE PROPOSED ZONING PETITION REGARDING DORMER GUIDELINES	9
CONTINUED CASES	
BZA-214584 -- 88 HOLWORTHY STREET SIX MONTH EXTENSION REQUEST Original Hearing Date: 04/27/23 Decision filed on 6/22/23	5
BZA-180779 -- 41 HAMPSHIRE STREET SIX MONTH EXTENSION REQUEST FOR VARIANCE ONLY Original Hearing Date: 05/25/23 Decision Filed on 07/14/23	7
REGULAR AGENDA	
BZA-266007 -- 26 FOCH STREET	28
BZA-266282 -- 413 BROADWAY	38
BZA-264148 -- 815 SOMERVILLE AVENUE	48
BZA-267118 -- 2530-R MASS AVENUE	58

1 P R O C E E D I N G S

2 * * * * *

3 (6:00 p.m.)

4 Sitting Members: Jim Monteverde, Steven Ng, William Boehm,
5 Daniel Hidalgo, Carol Agate, and Michael
6 LaRosa

7 JIM MONTEVERDE: Welcome to the May 23, 2024
8 meeting of the Cambridge Board of Zoning Appeal. My name is
9 Jim Monteverde, and I am the Chair.

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

14 This meeting is being video and audio recorded and
15 is broadcast on cable television Channel 22 within
16 Cambridge.

17 There will also be a transcript of the
18 proceedings.

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

22 Members of the public will be kept on mute until

1 it is time for public comment. I will give instructions for
2 public comment at that time, and you can also find
3 instructions on the City's webpage for remote BZA meetings.
4 Generally, you will have up to three minutes to 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: Present. Thank you.

9 STEPHEN NATOLA: Carol Agate?

10 CAROL AGATE: Present.

11 STEPHEN NATOLA: Steven Ng?

12 STEVEN NG: Present.

13 STEPHEN NATOLA: Bill Boehm?

14 BILL BOEHM: Present.

15 STEPHEN NATOLA: Daniel?

16 DANIEL HIDALGO: Present.

17 STEPHEN NATOLA: Michael Larosa?

18 MICHAEL LAROSA: Present.

19 JIM MONTEVERDE: Great. Michael, nice to see you.
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(6:02 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
Carol Agate, and Michael LaRosa

JIM MONTEVERDE: All right. The first cases tonight are all continued cases that were started previously and not resolved.

And at the discretion of the Chair, if you don't mind, I'd like to take care -- we have two Extension Requests. I'd like to take care of those two Extension Requests and put those aside so we can move on to the discussion we'd like to have. Is that all right?

DANIEL HIDALGO: Fine.

JIM MONTEVERDE: Oh, hold on. We have to hold on a second for IT. Anyway, is that -- We're supposed to chitchat, talk among ourselves?

Members of the Board that are present, is it all right if we switch around the Agenda and take the Extension Requests first, and then do the discussion, is that all right?

COLLECTIVE: All right with me. Sounds good.

JIM MONTEVERDE: Thank you. We just have some

1 technical glitch.

2 [Side conversations]

3 All right. The first case will be BZA 214584 --
4 88 Holworthy Street. Do we have the files for Holworthy?

5 This is a request for a Six Month Extension for
6 the Variance. This will bring the extension until December
7 22, 2024.

8 By voice vote, please? Steven?

9 STEVEN NG: In favor.

10 JIM MONTEVERDE: Daniel?

11 DANIEL HIDALGO: In favor.

12 JIM MONTEVERDE: Carol?

13 CAROL AGATE: In favor.

14 JIM MONTEVERDE: Michael?

15 MICHAEL LAROSA: In favor.

16 JIM MONTEVERDE: And Jim Monteverde in favor.

17 [All vote YES]

18 JIM MONTEVERDE: That's five in favor; the
19 extension is granted.

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2 (6:06 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
4 Carol Agate, and Michael LaRosa

5 JIM MONTEVERDE: Okay. Next one up is BZA 180779
6 -- 41 Hampshire Street. This one is a Request for an
7 Extension for the Variance only.

8 Steven, Daniel, Carol, Michael, and me.

9 Again, the next file for the 180779. Okay. This
10 an Extension Request for the Variance only. This will allow
11 the variance to run until January 14, 2025. On the motion
12 to grant the extension, Steven?

13 STEVEN NG: In favor.

14 JIM MONTEVERDE: Daniel?

15 DANIEL HIDALGO: In favor.

16 JIM MONTEVERDE: Carol?

17 CAROL AGATE: In favor.

18 JIM MONTEVERDE: Michael?

19 MICHAEL LAROSA: In favor.

20 JIM MONTEVERDE: And Jim Monteverde in favor.

21 [All vote YES]

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

1 extension is granted.

2 CAROL AGATE: Do we go ahead with the hearing on
3 the special permit?

4 JIM MONTEVERDE: No, this is only about the
5 variance -- for variance on this one.

6 All right. I'll just open it up to public comment
7 on those two Extension Requests. Any member of the public
8 who wishes to speak should now click the icon at the bottom
9 of your Zoom screen that 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 confirm that we can hear you. After that you
15 will have up to three minutes to speak before I ask you to
16 wrap up.

17 All right. No one's calling in. I'm closing
18 public testimony. We have made a motion, we've had a vote,
19 we're done with the Extensions. Thank you.

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2 (6:08 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Bill Boehm,
4 Daniel Hidalgo, Carol Agate, and Michael
5 LaRosa

6 JIM MONTEVERDE: Now, the other matter that's in
7 the Continued column is for the Board members present to
8 consider a proposed Zoning Petition. This is to amend the
9 Ordinance to in essence roll in the former guidelines into
10 the Ordinance, so that the former guidelines don't -- or no
11 longer need to exist as a stand-alone document.

12 The reason we're doing it this way tonight is to
13 explain is I think I mentioned something in one of our
14 meetings months ago, asked if there was any interest.

15 I believe I did this during one of our meetings,
16 or I sent an e-mail out to everyone. And I was notified
17 that if I contacted a quorum for a discussion, that it
18 needed to be held as a public meeting.

19 So when I sent that message out months ago, Bill
20 had replied back. And Bill and I have worked together to
21 draft what you see on the agenda tonight; a simple statement
22 as a proposal.

1 There are, as I understand, two ways to propose
2 that we could propose it; either individually as a group we
3 could propose an Ordinance amendment and one is that it can
4 come from the Board of Zoning Appeal if once we get this
5 document -- this is just a draft at the moment and subject
6 to some changes, but once the document we feel is final, we
7 have to put it to a vote to the members, and if there's a --
8 if it passes, then we can submit that, and I have to go back
9 and read the description that's in the Community Development
10 file about what that process is; how it gets submitted.

11 That's one path.

12 Personally, I'm interested in doing this, so the
13 other path that exists is if the Board -- there isn't a
14 quorum of the Board that wants to do this, then I or someone
15 else may do this individually, in which case we'd need -- I
16 forget what it is, is 20 or 56 signatures in support.

17 But anyway, so Bill and I have been talking about
18 -- and what you see on the printed agenda, can you -- sorry,
19 when Stephen comes back if we can bring that up -- what we
20 did, and this is really to help; there are people who come
21 -- might have been doing this for eight years plus -- a
22 number of people have come before us as proponents who

1 either say they never heard of the dormer guidelines or
2 challenge it because it's a guideline, it's not in the
3 Zoning Ordinance, and it seemed like it just put all that to
4 bed.

5 And since they're -- in the near recent past there
6 have been more of them than previously, and nine times out
7 of 10, they get if they comply with the Dormer Guidelines,
8 we approve them.

9 The thought was to just agree to verbiage that
10 could go in the Ordinance about describing the dormers.

11 And as this is phrased, if it conformed to the
12 description here, then really it could be done and falls
13 under Section 8.22.1.h.2, which is under the Noncompliance.
14 It could be done as-of-right. They didn't have to come to
15 the Zoning Board for review. Only if they wanted to vary
16 from what the Ordinance would say.

17 So -- and what we've done was we took the existing
18 language in 8.22.1.h.2 and revised it to say what is on that
19 announcement. Okay. I'm going to bring that up on the
20 screen.

21 And again, any of these are malleable, but it's
22 about the face of the dormer not extending beyond the face

1 of the existing wall below, the length of the dormer not to
2 exceed 15' in length or half the length of the roof upon
3 which it is built, whichever is less. That was because we
4 see some dormer proposals that happen on rather small houses
5 and the 15' seems to be large.

6 Side of the dormer does not extend closer to the
7 3.6 to the existing roof termination. Windows will cover 50
8 percent of the primary dormer wall, and top of the dormer
9 should be no closer than one foot to the existing ridge.

10 So we took the very -- the most basic items out of
11 the Dormer Guidelines and thought we could reword them to
12 get to the essence of it and include it in the Ordinance and
13 be able to potentially do away with the Dormer Guidelines.

14 So that's what we've been working on behind the
15 curtain here. And in order to move forward, if it's to be a
16 -- done as an Ordinance modification requested by the Board,
17 then the Board has to be in agreement with it, or just agree
18 and conceptually move ahead with this.

19 And that's all the discussion for tonight is, is
20 to see if among the five of us present this evening there's
21 a quorum that would want to pursue something like this.

22 And if you haven't had time to think about it,

1 that's fine, and we can come back to this at another -- if
2 we're going to continue to have discussions about this, this
3 will all have to happen as public hearing and as part of the
4 Continued Agenda.

5 So hearing that, Steven do you have an opinion?
6 Would you be interested in --

7 STEVEN NG: Oh, yes. Thank you. First, thank you
8 for you Jim, Chair, and Bill for taking that on and pulling
9 that together. I think your explanation of making the
10 guidelines embedded into the Ordinance is probably the best
11 way to keep everyone aware of those requirements.

12 And I think we should pursue approval of that
13 section as a Board together, since we do kind of -- are the
14 Commission that deals with that discussion with
15 applications.

16 So I'm in full support of taking it to the next
17 step.

18 JIM MONTEVERDE: All right. Great. Thank you.
19 Daniel?

20 DANIEL HIDALGO: Yeah. Yeah. Thank you so much
21 were found presenting this. I'm glad this has been
22 happening behind the scenes.

1 So yeah, just to clarify, just so I know, and
2 understand the changes, right now as you mentioned in -- let
3 me pull up my notes here 8.22.1.h, they're sort of -- at
4 least part of these dormer guidelines are already there,
5 right?

6 JIM MONTEVERDE: Right.

7 DANIEL HIDALGO: At least the 15', correct?

8 JIM MONTEVERDE: Yeah, correct.

9 DANIEL HIDALGO: And so, it would be a)
10 elaborating that out a bit, so adding some requirements.

11 And two, my understanding is currently if you
12 don't meet the yard and height requirements, you can -- but
13 you meet the requirements but your dormer -- proposed dormer
14 meets the requirements as laid out currently, then you can
15 do it by right.

16 So this would be adding FAR. It would be adding
17 the FAR exemption as well, or basically saying that it could
18 be -- let's see, it could be yard and height requirement and
19 FAR violations.

20 And then you could -- that's preexisting, and then
21 you could -- but if you met the dormer guidelines as you
22 laid out, then you'd be able to do it by right?

1 JIM MONTEVERDE: That's a suggestion.

2 DANIEL HIDALGO: Okay.

3 JIM MONTEVERDE: But it's really because just in
4 -- I think in past history, I don't know how many of these
5 you've seen in your time on the Board, but I don't think
6 I've seen one where we've refused the request, due to side
7 yard setback, because it usually means the house is already
8 in the side yard setback, or the height, because we'd
9 basically say the dormer can't be closer to 1' from the
10 ridge.

11 DANIEL HIDALGO: Right.

12 JIM MONTEVERDE: So there's already something that
13 is either the highest element on the structure. And FAR,
14 you know, usually the discussion is about adding room in an
15 attic for a family that's growing; they don't want to leave
16 Cambridge, they don't -- you know, there's a hardship. And
17 we -- they -- I believe they've always been granted.

18 DANIEL HIDALGO: Yeah.

19 JIM MONTEVERDE: So it's really taking that into
20 account. So -- but it's for every -- you know, again, it's
21 for discussion -- each of these items is for discussion.

22 DANIEL HIDALGO: No, no, I agree that's been the

1 pattern, at least since I've been on the Board, and so I
2 mean I'm supportive of that. And I like making it more
3 consistent and predictable. I just wanted to make --
4 clarify to make sure I understood.

5 And then the second point is just this is -- I
6 don't really have a view on it, but more just to raise it is
7 that, you know, I recall when I read the Dormer Guidelines
8 there's a lot of other kind of recommendations maybe softer
9 recommendations in there.

10 I assume you just don't think those are of
11 importance and -- because you suggest, like, withdraw the
12 Guidelines. So I assume that means, you know, just that
13 kind of extra is not really that useful or relevant.

14 And so it's not -- doesn't need to still exist --
15 at least those kind of recommendations.

16 JIM MONTEVERDE: That was our sense. I mean,
17 reading the Dormer Guidelines, and I don't think I have my
18 copy with me, but it's basically written to cover several
19 different types of dormers, which in most of the cases we
20 see, there's only one -- because they're 15' long, it's not
21 going to be a -- it's going to be a shed roof.

22 DANIEL HIDALGO: Yeah.

1 JIM MONTEVERDE: It's not going to be a pitch
2 roof, it's not going to be a hip roof, because they're too
3 big. So the fact that the previous description split that
4 up into three separate categories with diagrams and this
5 narrative really didn't seem to be necessary. You can do it
6 once and be done with it. That's what we tried to, I think,
7 distill out of the Dormer Guidelines.

8 But, again, that's for you all to look at and
9 comment.

10 DANIEL HIDALGO: Okay.

11 JIM MONTEVERDE: But that was the intention. And
12 it looked like a lot of the verbiage in there we didn't
13 need. And I assume what this would do is if the proponent
14 was subject to review by a local either Historical
15 Commission or a Conservation Commission, that they would
16 have the right to review a comment on a dormer.

17 DANIEL HIDALGO: Yeah.

18 JIM MONTEVERDE: In terms of what it would look
19 like; what color, what materials, et cetera. That we would
20 -- and -- you know, so they could do that, even though this
21 basically says, "Yeah, you've got the right to, but it would
22 then be a condition on doing that."

1 All right. Anything else, Daniel?

2 DANIEL HIDALGO: No, that's it. I mean I think
3 I'm supportive. I, you know, defer to my more --

4 JIM MONTEVERDE: Right.

5 DANIEL HIDALGO: -- particularly -- you know, my
6 colleagues, but -- and it makes sense to me.

7 JIM MONTEVERDE: All right, thanks.

8 Carol, how do you feel about it?

9 BILL BOEHM: Excuse me, excuse me, Jim.

10 CAROL AGATE: Oh.

11 BILL BOEHM: I -- this is Bill. I just want to
12 jump in on the last point about the Guidelines and to say
13 that CDD reviewed this, and I don't know if you guys saw the
14 markups or not, but --

15 JIM MONTEVERDE: No.

16 BILL BOEHM: One of the comments --

17 JIM MONTEVERDE: No one's seen that.

18 BILL BOEHM: Oh, okay. Well, I guess I'll jump
19 ahead on that, then, just to say that one of their comments
20 specially on what becomes the Guidelines is they recommended
21 the Guidelines either remain in place or become just a
22 reference document that people could use if they want to,

1 which may be useful to people who are trying to do a dormer
2 that looks historic, and they find that document useful.

3 So it might be good for us to think of we're not
4 eliminating the Guidelines, we're just transferring them
5 into sort of a guidance role rather than a somewhat
6 regulatory role, which has been confusing. So.

7 JIM MONTEVERDE: Yep.

8 BILL BOEHM: Yep.

9 JIM MONTEVERDE: Thank you. Carol?

10 CAROL AGATE: Okay. I think it's a tremendous
11 improvement; the simplification of it and a lot of things
12 are elicited that I don't think are necessary.

13 Some things that are eliminated might wind up
14 being questions not answered, such as the 15' in length. It
15 doesn't provide what happens, whether you combine two
16 dormers, whether it's added on is something that's in the
17 Guidelines, it's not in here.

18 So there are some things like that that you might
19 want to put back in, but I think most of what's in the
20 Guidelines is good riddance.

21 JIM MONTEVERDE: Thank you.

22 Michael, what's your sense?

1 MICHAEL LAROSA: Same general comment. I think
2 it's a move in the right direction of simplifying things.
3 I'm a little confused at what Bill just brought up.

4 So if we're going to keep the Guidelines, what --
5 even as a reference -- if we're saying here that we're going
6 to try to eliminate Guidelines, but then keep the
7 Guidelines, what -- I guess what would be the benefit of
8 still having them as a reference when reviewing this stuff,
9 if this is included in the code?

10 BILL BOEHM: So this, as I said, came from a
11 comment from CDD and I took that to be that this guide, it
12 might reside within the Historic Commission as a reference
13 piece that people are welcome to refer to, or if the
14 Historic Commission wanted to use that to sort of decide how
15 they were going to treat dormers that were within their
16 purview.

17 But we would -- they would no longer be part of
18 our Zoning Board of Appeal process. But it's not that we're
19 saying, you know, they're worthless, get rid of them. They
20 may have some value, it's just they're not a good tool for
21 our purposes. So that's how I thought about it.

22 JIM MONTEVERDE: Again, I -- don't take what you

1 see up on the screen as the final word. It's really a
2 draft, and it's just for discussion tonight to see if
3 there's enough interest to move this forward.

4 So I think I'm hearing the interest and the
5 support for the proposing something, some change, so that's
6 good. Thank you all.

7 Then it's a question of how we go forward. Again,
8 if it involves a quorum, this needs to be in a public
9 meeting, which is kind of a -- probably not the most
10 efficient format for us to talk all this out.

11 I know Bill and I are working on this. We've just
12 gone back and forth on e-mail, but it may be helpful, Bill
13 if you're still available, if you and I take a look at -- we
14 did receive some comments, we did share this around.

15 And we should review those and see if we can tweak
16 this. And then release it to the Board; release it publicly
17 like we did here and have it as another public hearing and
18 see if we can agree on the text.

19 And then if we're agreed on the text, then we can
20 call for a vote. And if we get an affirmative, then we can
21 submit it for implementation. And I'm sure there are other
22 groups that will review it then, and we'll see what happens.

1 So I think that's what I'll do.

2 But thank you all. That's all we needed to do for
3 this evening.

4 Any thoughts you have, if you share those around
5 by e-mail or otherwise. Again, what I was told if you
6 released that more than a quorum or a quorum or more with
7 the members of the Board, then that has to be in a public
8 meeting. Anything less than that you can correspond by e-
9 mail or otherwise.

10 So that's the only advice I can offer.

11 All right? So we'll continue to work on this and
12 tweak this a bit. Take a look at the suggestions and come
13 back with a revised version. And we can see if we'll be in
14 a more final form for us to all review and vote on.

15 I think this won't happen looking at the next
16 meeting schedule. This probably won't happen until July 11
17 meeting at the earliest. So it's not moving fast.

18 All right. Any other comments? And I'm going to
19 -- this is a public meeting; I'm going to open it to public
20 comment. Anything else from members of the Board before I
21 open it up for public comment?

22 BILL BOEHM: Jim, I guess I will just make one

1 comment. And again, jumping ahead because since we did hear
2 some stuff from CDD, I think it's worth sharing just the
3 general tenor.

4 One of the Urban Design Staff, which is part of
5 the CDD Staff I thought made a good comment is that rather
6 than pitching this as a way to make our lives easier
7 administratively and get things -- less things in front of
8 us, which is a good idea, it's also about encouraging what's
9 becoming known as gentle density, which is how do we
10 increase density in the city in a way that is reasonable and
11 kind of appropriate?

12 And we know that expanding up into the -- your
13 attic third floor to allow for a growing family is quite
14 reasonable. And so, by making that process more
15 straightforward and simpler, we encourage that, and that's a
16 good thing.

17 And that's sort of -- I think that goes along with
18 the general kind of sense within the city that we need to
19 find ways to create density. And gentle density is easier
20 than nongentle density. So --

21 JIM MONTEVERDE: Okay.

22 BILL BOEHM: -- I just thought I'd add that.

1 JIM MONTEVERDE: Okay. Let me open it to public
2 comment, to see if there's anybody calling in who wishes to
3 comment. Any member of the public who wishes to speak
4 should now click the icon at the bottom of your Zoom screen
5 that says, "Raise hand."

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

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

13 STEPHEN NATOLA: Dan Anderson?

14 DAN ANDERSON: Good evening, Mr. Chair, and
15 members of the Board. This is Dan Anderson, a Partner at
16 Anderson Porter Design, 1972 Mass Ave. I hope you're having
17 a good evening.

18 So I'm actually fully in support of this. I would
19 just follow Bill's point of gentle density as one. The
20 other is really, I think one of the other Board members was
21 speaking about kind of clarity of language.

22 So I think some of the pieces are a little vague

1 in terms of length of the dormer, relation of side of the
2 dormer to roof termination can also be a little bit vague in
3 interpretation, whether it be cheek wall to gable wall as a
4 distance.

5 But I think generally, besides just supporting it,
6 we have the ability to approve nonconformities or extension
7 of nonconformities such as height or setback already by
8 special permit for one- and two-family homes.

9 And I'm wondering, following the gentle density,
10 whether this ought to be allowable for a conforming one- or
11 two-family dwelling; the limitations to strictly
12 nonconforming as well as it sounds like it has to both
13 violate yard height and FAR requirements the way that it's
14 currently written.

15 So other than those kind of very glancing
16 comments, I'm looking forward to seeing where this goes.

17 JIM MONTEVERDE: All right. Thank you. Thanks,
18 Dan for your comment.

19 Anyone else calling in?

20 STEPHEN NATOLA: John Hawkinson?

21 JOHN HAWKINSON: Thank you, Mr. Chair. John
22 Hawkinson. I just want to commend -- without really

1 addressing the merits of the petition, I want to commend the
2 Board for taking the time to think about zoning issues.

3 Because that's not -- you know, the language of the
4 Ordinance. Because historically the Board is, you know, of
5 course the one who administers the exceptions to the Zoning
6 Ordinance, but you're rarely involved in the drafting
7 process.

8 And I think it makes a huge amount of sense to
9 hear that you are communicating with, you know, CDD and
10 ultimately with the Council, if you choose to submit the
11 petition, just because you are the one with the boots on the
12 ground.

13 You're the ones who deal with it day in and day
14 out. It just makes a lot of sense for you to be involved
15 actively in shaping the Zoning Ordinance. So I think that's
16 a good thing.

17 And by the way, Jim, it's 10 registered voters, so
18 that's all you need. Thanks very much.

19 JIM MONTEVERDE: Thank you, John. Anyone else?

20 Okay. That's -- there's no one else on the line
21 calling in, so I will close public testimony. That's it.

22 So like I said, continue to work on this to tweak it, based

1 on some of the comments we've received already. And send --
2 post a draft out. I think I'll try for the July 11 meeting.

3 All right? So stay tuned. All right. Thank you.

4 And we have --

5 BILL BOEHM: Thank you. I'll sign off now.

6 JIM MONTEVERDE: Thanks, Bill.

7 STEVEN NG: Thanks, Bill.

8 JIM MONTEVERDE: And it's 6:31, so we have now
9 Steven, Daniel, Carol, Michael, and myself going forward.

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2 (6:32 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
4 Carol Agate, and Michael LaRosa

5 JIM MONTEVERDE: And we'll now open the Regular
6 Agenda with Case No. BZA 266007 -- 26 Foch Street.

7 JOHN HARROLD: Hi. That's us. I'm John. This is
8 my wife Sisi and her son Kai. And yeah, we are asking for a
9 --

10 SISI NI: Special permit.

11 JOHN HARROLD: -- special permit in order to be
12 able to do some renovations on our third floor. Currently,
13 our third floor has a regular roof. You can probably see
14 some of the -- yeah, I think we have some pictures. Our
15 current floor has a roof. And there's the pitched roofline.

16 And we're looking to expand that to be more square
17 shaped, so that we can better utilize our third floor space
18 that when we moved in, like, two years ago, we renovated the
19 bedroom, but I kind of bump my head on it every day. And
20 I'd like to stop.

21 Also, we're going to put in a room for our new
22 baby, who's coming in September. So I'm going to get ready

1 some room for him.

2 But a lot of the houses -- actually almost every
3 house in our neighborhood has some kind of modification to
4 the third floor. So I think that it would fit in with the
5 neighborhood pretty well.

6 And I think it's going to look good.

7 JIM MONTEVERDE: Okay.

8 JOHN HARROLD: But the real -- the reason we're
9 needing a special permit is because we are less than seven
10 and a half feet from our neighbor. Our neighbor has given
11 us a letter of support.

12 Another thing that keeps in the spirit of the law:
13 our neighbor has a driveway between their house and our
14 house, so we actually have quite a distance between actually
15 people living next to where we're going to be doing the
16 renovation.

17 But where our house is on the property is not
18 going to be moving at all.

19 JIM MONTEVERDE: All right. Thank you. Give me
20 one second. I'm looking for your drawing, which I'm not
21 finding.

22 JOHN HARROLD: Which, the property drawing?

1 JIM MONTEVERDE: No, the ones that should be in
2 our file.

3 JOHN HARROLD: Okay.

4 JIM MONTEVERDE: Just give me one moment, please.

5 [Pause]

6 Meanwhile, while I'm fumbling, any questions from
7 members of the Board?

8 None? Okay. I have just a couple. You're
9 seeking relief from the Table of Dimensional Requirements?

10 JOHN HARROLD: Yeah, between us and the neighbor,
11 yes.

12 JIM MONTEVERDE: You know what you're asking
13 relief for? Because it looks like you're compliant -- your
14 added gross square footage is still under the ordinance.
15 Your --

16 JOHN HARROLD: Yes.

17 JIM MONTEVERDE: -- FAR is under the ordinance.
18 Your front, rear, left side, right side setbacks are staying
19 the same as they are.

20 JOHN HARROLD: Mm-hm.

21 JIM MONTEVERDE: The height is increased by a foot
22 and a half, but it's still within the ordinance.

1 JOHN HARROLD: Yeah.

2 JIM MONTEVERDE: Nothing else seems to change. So
3 is there anything that you -- any relief you need under the
4 Dimensional Requirements?

5 JOHN HARROLD: The only relief I need is because
6 the one border that is I guess westernmost, is three or
7 three-and-a-half feet. It's under seven-and-a-half feet
8 from the neighbor. So --

9 JIM MONTEVERDE: Oh, okay. All right. Right,
10 yeah. I hear you.

11 JOHN HARROLD: One dimension is there, and because
12 we want to put square footage in that area because the small
13 slope doesn't count as square footage towards the gross,
14 that's what the relief is for.

15 JIM MONTEVERDE: Okay. Yeah, that's your --

16 JOHN HARROLD: Really small relief.

17 JIM MONTEVERDE: -- right side setback?

18 JOHN HARROLD: Right side, yeah.

19 JIM MONTEVERDE: Okay. All right. Again, I'll
20 ask any questions from members of the Board? If not --

21 CAROL AGATE: No.

22 JIM MONTEVERDE: -- I'll open it up to public

1 commentary. Let me say that we have in the file seven
2 pieces of correspondence in favor, none speaking against.

3 And let me just summarize what we have in the
4 file. Actually, I think you have more than seven now, I
5 have eight. One that's undated from John Harrold, Sisi Ni,
6 in favor; from Chris Atlanca (phonetic); they live across
7 the street, in favor; David Paquette at 27 Foch Street, in
8 favor.

9 JOHN HARROLD: Downstairs.

10 JIM MONTEVERDE: Goldberg, 17 Foch Street, in
11 favor; John Carbone and Marlene -- I can't make out the last
12 name, but 21 Foch Street, in favor.

13 SISI NI: Oh!

14 JIM MONTEVERDE: Drake Boyer (phonetic), 28 Foch
15 Street, in favor; Xavier Benzan (phonetic) at 28 Foch Street
16 in favor; and Alex Holman in favor. And none against.

17 So summarizing those, anyone else they want to
18 talk, please any member of the public who wishes to speak
19 should now click the icon at the bottom of your Zoom screen
20 that says, "Raise hand."

21 If you're calling in by phone, you can raise your
22 hand by pressing *9 and unmute or mute by 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 Nope. No one is calling in. All right. I will
7 close public testimony. Any discussion among members of the
8 Board?

9 DANIEL HIDALGO: Just that I'm in favor of this.
10 You know, it's really sending any nonconformities in any
11 kind of meaningful way, and so I think this seems like a
12 good addition. And it's consistent with the rest of the
13 neighborhood.

14 JIM MONTEVERDE: Thank you.

15 CAROL AGATE: And I agree with that.

16 JIM MONTEVERDE: Thank you. Anyone else have any
17 discussion? Members of the Board? Let me, then, throw one
18 in.

19 My only comment, and what troubles me, is looking
20 at the neighboring houses up and down the street and really
21 the neighborhood, the what's proposed as a -- everything
22 else is two, two and a half stories, pitched roof, etc.

1 What's proposed here kind of maxing out that third
2 floor, I feel like it does not fit in with the neighborhood
3 really to the detriment of the neighborhood and more
4 proponents would come forward to want to do something
5 similar.

6 So I'm perplexed. And I don't know that I can
7 support it. But I'll leave it there.

8 STEVEN NG: I had a similar observation when I saw
9 the elevation and the flat roof scheme to maximize the
10 square footage for the residents. But I think when -- at
11 the end of the day, the FAR, they're well below the -- you
12 know, what the Ordinance offers for them.

13 And I don't -- I think just -- you know, the
14 compliance with the FAR kind of convinces me to -- it is
15 maybe more an aesthetic observation than something with
16 density or what not.

17 So that's why I'm not really making that a
18 concern. But that was an item I was contemplating reviewing
19 the application.

20 JIM MONTEVERDE: Okay. Thank you.

21 CAROL AGATE: It didn't really bother me, because
22 it's so tucked away and I mean, just this little street and

1 there's so much space around the house because of the weird
2 way it's placed that I can't see that it's really going to
3 be disturbing anything in the neighborhood.

4 JIM MONTEVERDE: All right.

5 CAROL AGATE: Especially when the neighbors are in
6 favor.

7 JIM MONTEVERDE: Right. Anyone else on the Board?
8 Any discussion, any comments?

9 MICHAEL LAROSA: The only thing -- I had the same
10 first thought, Jim. I looked up and down the street. A lot
11 of the other houses have dormers --

12 JIM MONTEVERDE: Right.

13 MICHAEL LAROSA: -- that almost square it off.
14 And honestly, they comply with everything but that three
15 feet. So for as much as we always talk about reasonable
16 density or density that doesn't bother anybody in allowing
17 families to stay, I can't see voting against it because
18 they're off on one measurement by three feet where they have
19 everything else; the FAR, square footage and really everyone
20 else is semi-squared off with dormers.

21 So I think I'd be in favor.

22 JIM MONTEVERDE: All right. Thank you, everyone

1 for your comments. Let me move, then, to a motion.

2 The Chair makes a motion to grant relief from the
3 requirements of the Ordinance under Sections 5.31 and
4 that's specifically the right-side setback; for our Section
5 8.22.2.c for Alterations for Nonconforming Structure -- and
6 this is a special permit, so Section 10.40.

7 On the condition that the work proposed conforms
8 to the drawings entitled "26 Foch Street," prepared by
9 Kritikos (phonetic) Architects, dated -- undated, but I'll
10 put today's date on there -- initialed and dated by the
11 Chair.

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

15 On a voice vote, please, Steven?

16 STEVEN NG: In favor.

17 JIM MONTEVERDE: Daniel?

18 DANIEL HIDALGO: In favor.

19 JIM MONTEVERDE: Carol?

20 CAROL AGATE: In favor.

21 JIM MONTEVERDE: Michael?

22 MICHAEL LAROSA: In favor.

1 JIM MONTEVERDE: And Jim Monteverde, I'm going to
2 vote against.

3 [FOUR vote YES, ONE votes NO]

4 JIM MONTEVERDE: That's four in favor. The relief
5 is granted. Thank you.

6 JOHN HARROLD: Thank you very much.

7 SISI NI: Thank you. Thank you for your time.

8 JIM MONTEVERDE: You're welcome.

9 [CHILD'S VOICE]: Thank you.

10 JIM MONTEVERDE: You're welcome.

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(6:43 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
Carol Agate, and Michael LaRosa

JIM MONTEVERDE: Next case is BZA-266282 -- 413
Broadway. Anybody calling in? Bill Harper, are you with
us?

BILL HARPER: Yes, I am, hello.

JIM MONTEVERDE: Hi. Can you introduce yourself,
and then in your presentation, tell us what you'd like to do
and what relief you're looking for.

BILL HARPER: Yep. My name is Bill Harper. I'm
an architect with Byggmeister Design Build. I'm here
representing the homeowners Diana Yousef-Martinek and
Sebastian Martinek. I think Sebastian may be trying to join
us right now, but anyhow we have a --

SEBASTIAN MARTINACK: I'm on.

BILL HARPER: Oh. That was Sebastian.
So we have a basement renovation. The property in
question is nonconforming in that its exterior wall is on
the property line. It abuts an open alley with 411 Broadway
across the alleyway.

1 We're hoping to install four basement-height fixed
2 windows. We are -- and we have approval from Historic, and
3 yeah. So we're a nonconforming building. I don't think
4 there's a -- nonconforming lot, rather. I don't think
5 there's much else to it beyond that.

6 JIM MONTEVERDE: Yep. We're just going to bring
7 up the one graphic that shows the -- it's the four windows
8 that are being added, correct?

9 BILL HARPER: Correct.

10 JIM MONTEVERDE: In your right-side setback?

11 BILL HARPER: Yes.

12 JIM MONTEVERDE: That's the extent of it?

13 BILL HARPER: That's the extent, yes.

14 JIM MONTEVERDE: Okay. And that's the dimensional
15 issue is you're hard against the property line?

16 BILL HARPER: Yes, it is.

17 JIM MONTEVERDE: Okay. All right. Anything else
18 in terms of your presentation, or is that --

19 BILL HARPER: No, I think I had mentioned at the
20 time of my application we were given the impression that we
21 would need to seek a variance from the Building Code --
22 state Building Code, due to fire separation issues.

1 But we've worked that out with the Building
2 Inspector, and due to the definition of "Fire Separation,"
3 we meet compliance on that front. I mentioned that as a
4 comment in the application, but that is no longer a concern.

5 JIM MONTEVERDE: Right. And that's a Building
6 Code issue, not a Zoning Ordinance issue? So --

7 BILL HARPER: Yes. That's the only possible seen
8 again or --

9 JIM MONTEVERDE: Yeah.

10 BILL HARPER: -- change from what I submitted.

11 JIM MONTEVERDE: Okay. Thank you. Any questions
12 from members of the Board? If not, I will open it up to
13 public comment.

14 And in the file, we have one letter in favor and
15 none against. We have one from Geoffrey Peters, who lives
16 at 411 Broadway. He is speaking in favor.

17 And as Mr. Harper mentioned, we have a Certificate
18 of Appropriateness from the Mid Cambridge Neighborhood
19 Conservation District Commission dated October 2, 2023 for
20 the replacement of the windows.

21 And it states -- and we'll add this as a condition
22 -- that this certificate is granted upon the condition that

1 the work authorized is commenced within six months after the
2 date of issuance; if the work authorized by this certificate
3 is not commenced within six months after the date of
4 issuance, or if such work is suspended in significant part
5 for a period of one year after the time the work is
6 commenced, this certificate shall expire and be of no
7 further effect.

8 I will just enter that as a condition.

9 BILL HARPER: I can add comment to that if you
10 like. So at the time at October, the original proposal was
11 to replace two basement-level front windows, front facing
12 Broadway, and then add only two windows to the alley side.

13 We got approval for that from Historic. We moved
14 ahead with a building permit to renovate the basement
15 holding the alley -- and the alley window installation
16 separate for the sake of this process, including the
17 possible Building Code variance we were told we needed.

18 The two windows at the front were replaced, which
19 I didn't mention until now, because that's a separate issue.
20 But that certificate we got from the Historic Commission,
21 that was slightly amended by we got a Certificate of Non-
22 Applicability added to our file by Allison Crosbie in

1 relation to the alley windows expanding in scope. You know,
2 it was --

3 JIM MONTEVERDE: Okay.

4 BILL HARPER: So that's the only clarity there.

5 JIM MONTEVERDE: Since that's not in our file,
6 could you please send that right to the ISD office, please?

7 BILL HARPER: Certainly.

8 JIM MONTEVERDE: Do they have it there? Oh, we
9 have it.

10 BILL HARPER: Yeah.

11 JIM MONTEVERDE: All right. It's up on the
12 screen. Okay. Again, I read through and summarized the
13 correspondence we have in the file. Let me open it to
14 public comment.

15 Any members of the public who wish to speak should
16 now click the icon at the bottom of your Zoom screen that
17 says, "Raise 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 the speakers one at a
21 time. You should begin by saying your name and address, and
22 Staff will then confirm that we can hear you. After that

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

3 No one's calling in, so I will close public
4 testimony.

5 Any discussion among members of the Board?

6 CAROL AGATE: Mr. Peters is the only one affected
7 by this and he doesn't mind. Simple enough change, and no
8 reason to object.

9 JIM MONTEVERDE: Very good. Thank you. Any other
10 members have any discussion, or are we ready to move for a
11 motion?

12 MICHAEL LAROSA: I just have one question. Is the
13 -- when you mentioned the renovations a minute ago, is that
14 -- so the plan we have that showed the playroom and the
15 study; is that post renovation or present?

16 BILL HARPER: So that is -- let me keep on going
17 to the floor plan -- so that, the renovation is currently
18 underway. And it is -- so prior to this, it was an
19 unfinished basement. Prior to the ownership, it was a
20 basement-level unit. Here we go.

21 And so, basically, we've proceeded with this
22 renovation, but holding the bubbled windows, the windows in

1 question, aside. You know, we've sort of done some interior
2 work to prepare for the possibility of these being
3 permitted. So that's an ongoing, open permit unto itself.
4 And so, this is -- these four will just be added as an
5 addendum to that. So.

6 MICHAEL LAROSA: Right, but I guess my question
7 was, so the permit was to build the playroom and study
8 that's shown here, not something different?

9 BILL HARPER: Correct. That --

10 MICHAEL LAROSA: Okay.

11 BILL HARPER: -- that permit, yes. And I believe
12 we have applied for a separate, second permit just for these
13 four windows. We broke them out, because we've never gone
14 for a variance with the state before and didn't know what
15 that would be like. And happy we did not need to do that.
16 And so --

17 MICHAEL LAROSA: Got you.

18 BILL HARPER: -- but with the uncertainty of the
19 schedule. But that's why we did that; just moved ahead with
20 the renovation as it was and pursued the separate permitting
21 process for these.

22 MICHAEL LAROSA: Okay. Thank you.

1 JIM MONTEVERDE: Thank you. Any other discussion
2 from members of the Board? If not, we can move on -- I'll
3 move on to a motion.

4 The Chair makes a motion to grant relief from the
5 requirements of the Ordinance under Sections 5.31, specially
6 for the right-side setback; 8.22.2.c, Alterations to a
7 Nonconforming Structure; and 10.40 for the Special Permit.
8 And let me just flip to that criteria.

9 It appears that the requirements of the Ordinance
10 cannot or will not be met. Correct.

11 Traffic generated or patterns of access or egress
12 would cause congestion, hazard, or substantial change. No.

13 The continued operation of or the development of
14 the adjacent uses as permitted in the zoning would be
15 adversely affected. No.

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

18 And for other reasons, the proposed use would
19 impair the integrity of the district or adjoining uses. And
20 no to that as well.

21 So I think you meet all the Criteria for the
22 Special permit under Section 10.43.

1 So on the condition that the work proposed conform
2 to the drawings entitled "Yousef-Martinek Residence,"
3 prepared by Byggmeister Design Build and dated February 19,
4 2024; initialed and dated by the Chair.

5 And further, that we incorporate the supporting
6 statements and dimensional forms submitted as part of the
7 application.

8 On a voice vote, please, Steven?

9 STEVEN NG: In favor.

10 JIM MONTEVERDE: Thank you. Daniel?

11 DANIEL HIDALGO: In favor.

12 JIM MONTEVERDE: Thank you. Carol?

13 CAROL AGATE: In favor.

14 JIM MONTEVERDE: Thank you. Michael?

15 MICHAEL LAROSA: In favor.

16 JIM MONTEVERDE: Thank you. And Jim Monteverde in
17 favor.

18 [All vote YES]

19 JIM MONTEVERDE: That's five affirmative. The
20 relief is granted. Thank you.

21 BILL HARPER: Thank you. Just can I -- one point
22 of clarity? You mentioned drawings dated February 19, but

1 the drawings that were submitted and that were on the screen
2 right now were from March 12. So just as a --

3 JIM MONTEVERDE: Okay. So noted.

4 BILL HARPER: Okay. So it's the March 12 drawings
5 that were under agreement.

6 JIM MONTEVERDE: Yep. Correct. Which is up on
7 the screen. Yeah. Correct. Thank you.

8 BILL HARPER: Thank you very much. I appreciate
9 it.

10 JIM MONTEVERDE: You're welcome.

11 BILL HARPER: Thank you.

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2 (7:00 p.m.)

3 Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
4 Carol Agate, and Michael LaRosa

5 JIM MONTEVERDE: Next case is BZA 264148 -- 815
6 Somerville Avenue. Is there anyone calling in who wishes to
7 speak about this case?

8 Yep. Johanna, are you calling in?

9 JOHANNA SCHNEIDER: Yes, thank you, Mr. Chair, and
10 members of the Board. My name is Johanna Schneider; I'm
11 Legal Counsel to the applicants; an affiliate of KS
12 Partners, which is a local developer with significant
13 experience developing smaller scale life science projects in
14 Greater Boston.

15 With me tonight on the Zoom, although I don't see
16 them are Todd Greenfield from KS Partners, Jim Ronstock, one
17 of our project architects and Scott Thornton from VAI, our
18 traffic consultant.

19 We are here tonight in connection with the
20 Adaptive Reuse of the existing office building at 815
21 Somerville Avenue to Small-Scale Lab and R&D Use.

22 This building was most recently used as office

1 space for Lesley University, but it has been vacant for some
2 years. As probably the Board is aware, the office market in
3 our area is really struggling, but the demand for smaller-
4 scale, incubator type lab space remains quite vibrant.

5 The building itself was built in 1973 and it's
6 just over 27,000 square feet. Our submission package
7 includes existing conditions photographs that can give the
8 Board a sense of the building that's the subject of the
9 application.

10 In late February, the Planning Board unanimously
11 voted to grant a special permit to convert the use. There's
12 very little about the exterior of the building that's
13 changing to accommodate the new views. And our submission
14 package has a series of elevations and some renderings that
15 illustrate the very limited work being done here.

16 As part of the Adaptive Reuse of the building,
17 loading for the project will continue to be accommodated
18 within an existing at-grade loading area on the image on the
19 screen. You can see it on the bottom right-hand corner.

20 The loading area is 10' x 30', and the ceiling of
21 the loading height is 14' at its highest point. The loading
22 area is accessed by an existing 10' x 10' garage door.

1 We understand from discussions with ISD that even
2 though no changes are being made to either the loading door
3 or the loading area, because the use is changing from Office
4 to Lab, a variance is required because the height of the
5 loading door does not meet the Dimensional Requirements of
6 Section 6.91 of the Ordinance.

7 I think page 25 of our submission package shows
8 the existing loading for the building. And Page 24 shows
9 the proposed loading. If we can scroll to those, it might
10 be helpful.

11 What we can see from those is that dimensionally
12 there is no change whatsoever. Operationally, panel vans
13 and pickup trucks will continue to be accommodated in the
14 interior loading area, as under existing conditions in the
15 past.

16 Single-unit trucks are also loaded within that
17 interior loading area, but as part of our Planning Board
18 process, we've agreed that the single-unit trucks will use
19 only the existing on-street loading zone in front of the
20 building on Somerville Ave, instead of backing into a
21 loading area as they have historically.

22 To be able to continue to use the existing loading

1 area to service the approved Lab use, we are requesting that
2 this Board grant a variance from the requirements of Section
3 6.91, which requires a 14' high door.

4 I would note that it is only with respect to the
5 height of the door, as the interior loading area is 14'
6 high.

7 And because this is a change of use, we're not
8 able to avail ourselves of Section 8.22.e.1 for preexisting,
9 nonconforming. If it would be of assistance to the Board, I
10 am happy to outline how our request meets the variance
11 criteria or to pause and respond to any questions the Board
12 may have.

13 JIM MONTEVERDE: Just for our edification, since
14 this is a Variance Request --

15 JOHANNA SCHNEIDER: Yes.

16 JIM MONTEVERDE: -- and there's always an issue of
17 hardship --

18 JOHANNA SCHNEIDER: Yes.

19 JIM MONTEVERDE: -- can you speak to the hardship,
20 please?

21 JOHANNA SCHNEIDER: Absolutely. So it's our
22 position that a literal enforcement of Section 6.91 would

1 involve a substantial hardship -- in particular a financial
2 hardship to the petitioner.

3 As I noted, this is an adaptive reuse of an
4 existing office building, which has been vacant for some
5 years now.

6 And due to post-pandemic market conditions and the
7 transition to hybrid work, there really is no demand for
8 office space in this area, but there does remain robust
9 demand for lab space, especially for smaller, incubator-type
10 life science tenants.

11 The building's existing off-street loading area is
12 within an existing enclosed garage. And as I mentioned, the
13 preexisting entry does not conform to the Dimensional
14 Requirements.

15 It is, however, neither financially more
16 practically feasible to enlarge this opening as to do so
17 would require significant renovation, if not demolition and
18 reconstruction of the existing building in order to make
19 this opening conform.

20 It would be cross-prohibitive to do so, and it
21 would also to a large extent defeat the purpose of the
22 adaptive reuse of the existing building, which was

1 something I know the Planning Board was very excited about
2 because of its inherent sustainability.

3 In addition, the inability to provide off-street
4 loading to future lab tenants would significantly decrease
5 the future viability of this project as a lab space.

6 JIM MONTEVERDE: Thank you. Any questions from
7 members of the Board?

8 CAROL AGATE: I'm curious as to whether there's
9 some kind of warning above the door or something. I mean,
10 if people are used to 14' being the limit and you're lower
11 than that, then is there a warning that it is low?

12 JOHANNA SCHNEIDER: So there is not a warning on
13 it, but I will say that for the history of this building,
14 this opening has existed. And larger trucks than the kind
15 that we're contemplating have gone in and out of it.

16 This is actually an improvement over existing
17 conditions because single-unit trucks used to back into this
18 loading in this entry, exactly as it is.

19 And as part of our Planning Board process, and as
20 vetted by TP&T and the Planning Board, we are now
21 eliminating that rear entry of larger trucks. And so, it
22 will only be smaller-size trucks that are permitted. Larger

1 trucks are going to do all of their loading out front.

2 CAROL AGATE: So they would be in effect parking
3 there? Because there's really no space there on the street.

4 JOHANNA SCHNEIDER: Well, there is an existing on-
5 street loading area, and again I think that because we're
6 talking about smaller lab users, we don't anticipate that
7 there will be many large trucks entering. We're, you know,
8 seeking to make delivers to this.

9 We really do think that -- you know, and again,
10 this is based on the experience of this developer who has a
11 number of smaller life science projects all around Greater
12 Boston -- that the likely tenants of this building just
13 given the size, location, the footprint, and the floor
14 plates, are really only going to be taking deliveries
15 through panel vans and pickup trucks. That's what typical
16 for that type of tenant.

17 JIM MONTEVERDE: Thank you.

18 CAROL AGATE: Okay. Thank you.

19 JIM MONTEVERDE: Any other questions from members
20 of the Board? If not, I will open it up to public comment.
21 We have no commentary, no correspondence in the file. So I
22 will open it up to public comment.

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

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

11 No one is calling in, so I will close public
12 testimony. Any discussion among members of the Board?

13 STEVEN NG: I think the -- for the adaptive reuse
14 transformation to a life science design, you always kind of
15 make sure or look at the type of science or the size of the
16 labs of a tenant space, and it seems very limited in terms
17 of the amount of square footage, which is what makes it
18 advantageous as an incubator type tenant space.

19 So, you know, the science is -- you're not needing
20 the larger trucks. You're not transferring -- you know,
21 liquid oxygen to something, so it's really, I think the
22 loading dock as sized looks like it will be able to serve

1 the types of tenants for this type of life science space.

2 So I'm in favor of the variance.

3 JIM MONTEVERDE: Thank you, Steven. I concur with
4 Steven's comments as well.

5 Any other discussion from Board members?

6 DANIEL HIDALGO: Just with respect to the
7 variance, I find -- I'm convinced that given the adaptive
8 reuse and the change of use that has already gone through
9 the Planning Board that this is kind of a unique condition,
10 and it meets the requirements of the variance.

11 JIM MONTEVERDE: Yep, exactly. Thank you. Anyone
12 else? Member of the Board? If not, move to a motion.

13 The Chair makes a motion to grant relief from the
14 requirements of the Ordinance under Sections 6.90 regarding
15 the loading and loading dock height or the loading dock door
16 height and 10.30 for a variance.

17 The hardship was discussed by the proponent, as in
18 the required door width would require, or height would
19 require significant renovation if not demolition and
20 reconstruction.

21 On the condition that the work proposed conforms
22 to the drawings entitled "815 Somerville Avenue," prepared

1 by Embark KS Partners -- is that correct?

2 JOHANNA SCHNEIDER: Yes.

3 JIM MONTEVERDE: Yep, and dated February 27, 2024,
4 initialed and dated by the Chair.

5 And further that we incorporate the supporting
6 statements and dimensional forms submitted as part of the
7 application.

8 On a voice vote, please, Michael?

9 MICHAEL LAROSA: In favor.

10 JIM MONTEVERDE: Thank you. Carol?

11 CAROL AGATE: In favor.

12 JIM MONTEVERDE: Thank you. Daniel?

13 DANIEL HIDALGO: In favor.

14 JIM MONTEVERDE: Thank you. Steven?

15 STEVEN NG: In favor.

16 JIM MONTEVERDE: Thank you. And Jim Monteverde in
17 favor.

18 [All vote YES]

19 JIM MONTEVERDE: That's five affirmative. The
20 relief is granted.

21 JOHANNA SCHNEIDER: Thank you very much.

22 JIM MONTEVERDE: You're welcome.

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(7:15 p.m.)

Sitting Members: Jim Monteverde, Steven Ng, Daniel Hidalgo,
Carol Agate, and Michael LaRosa

JIM MONTEVERDE: Next case is BZA-267118 - 2530-R
Mass Avenue. And is there anyone calling in for proponent
for this relief? This is a Variance Request.

CAROL AGATE: If nobody shows up, do we decide
based on the record, or just drop it?

JIM MONTEVERDE: I don't know. I'll
seek an opinion from Staff. Let's give them a moment.
We're trying to contact them.

STEPHEN NATOLA: Hector Penagos?

HECTOR PENAGOS: Yep. Hello.

STEPHEN NATOLA: Are you the applicant, Hector?

HECTOR PENAGOS: Hello? No, I am not. I
submitted comments --

STEPHEN NATOLA: Okay.

JIM MONTEVERDE: All right. Hold on. Hold on.

HECTOR PENAGOS: -- for the petition.

JIM MONTEVERDE: We have them.

[Pause]

1 Give them another few more minutes.

2 STEVEN NATOLA: Euri, if you're in the Zoom, can
3 you please raise your hand or speak?

4 JIM MONTEVERDE: Hold on.

5 [Pause]

6 One more minute I'm going to call time.

7 [Pause]

8 Okay. 7:25. Is there a Euri Leguisamon or anyone
9 else with the proponent calling in?

10 STEPHEN NATOLA: 617 --

11 GINA NASCIMENTO: Hi there, this is -- yep, this
12 is Gina Nascimento on behalf of Walter Tauro, the landlord.
13 It's my understanding that our tenant, Euri, is not on the
14 call, is that correct?

15 STEPHEN NATOLA: Correct. Euri's not here.

16 GINA NASCIMENTO: Okay. I apologize. I thought
17 he would be on this call, so -- you know, I'm happy to speak
18 on behalf of the situation. But yeah, this whole thing came
19 up as a surprise to us, so -- in terms of the letter against
20 him. So we want to speak on that.

21 And I apologize for my tardiness.

22 JIM MONTEVERDE: Well, can you just back up a

1 second, introduce yourself?

2 GINA NASCIMENTO: Yep. So my name is Gina
3 Nascimento.

4 JIM MONTEVERDE: Yep. Thank you.

5 GINA NASCIMENTO: I manage the estate for Walter
6 Tauro; he's my father.

7 JIM MONTEVERDE: Okay. Yep. And can you describe
8 what the relief is that is being sought?

9 GINA NASCIMENTO: Yeah. So essentially, the
10 tenant came to us saying that he got a letter saying that
11 his business, you know, was not permitted to be done at that
12 property. And we also got a letter.

13 And we spoke with the City, and they advised us to
14 -- you know, have the tenant file an appeal, which I believe
15 is what this is. So I apologize; I don't know the
16 terminology of exactly what happens here.

17 JIM MONTEVERDE: Yep.

18 GINA NASCIMENTO: Our understanding was that, you
19 know, his business was okay in that space. And, you know,
20 if it's not, we're happy to, you know, comply with the City.

21 We -- you know, we like him as a tenant, he has an
22 established business there, and we do have a license with

1 the garage. I don't know the name of that license, but it's
2 -- you know, we renew it ever year so that the garage has a
3 license to run businesses out of it. So --

4 JIM MONTEVERDE: Yep.

5 GINA NASCIMENTO: -- I'm interested to hear the
6 City's take, of course, and -- you know, comply in any way.

7 JIM MONTEVERDE: So they -- what's listed in the
8 advertisement that you're seeking relief from from the
9 Ordinance is Section 4.37.h, which are the Use Categories.

10 And as I read that, it basically says in a
11 Residence B Zone an automobile repair facility is not
12 allowed. I think that's the issue. That's why you're here.
13 Okay.

14 EURI LEGUISAMON: Yes, hi. Hello?

15 JIM MONTEVERDE: Yes, hello. Can you introduce
16 yourself, please?

17 EURI LEGUISAMON: Hi, yes. how are you doing? My
18 name is Euri Leguisamon on the case that's 2530 Mass Ave.

19 JIM MONTEVERDE: Yep. You're the proponent, then?

20 EURI LEGUISAMON: Yes.

21 JIM MONTEVERDE: Okay. So the issue I think
22 that's in front of us and why you're here tonight is that

1 our Ordinance says that in a Residence B zoning zone, the
2 auto garage, repair is not an allowed use. So that's why
3 you're here.

4 EURI LEGUISAMON: Okay.

5 JIM MONTEVERDE: And you're seeking a variance,
6 and there are several conditions for a variance. And the
7 most specific one is you need to present a hardship on why
8 this -- the relief needs to be granted.

9 So can you tell us -- and I think there are two
10 previous permits or actions that were granted by the City on
11 this property?

12 GINA NASCIMENTO: Correct. I want to say
13 [unclear] permit. I don't have the permit in front of me,
14 unfortunately.

15 JIM MONTEVERDE: Yeah.

16 GINA NASCIMENTO: But we renew it --

17 JIM MONTEVERDE: I read those the other day. And
18 there's one from 1928 which allowed a one-story addition --
19 the house itself or the building itself must have existed in
20 1928.

21 And what was applied for at that time was to build
22 a one-story addition in front of the existing building at

1 2530 Mass Ave, for the sale of auto accessories. And that
2 was granted by the City.

3 And then in 1938, permission was granted to build
4 a one-story building in the rear of 2530, which I believe is
5 the lot -- or the address we're talking about now, 2530-R.
6 And it was to be used in connection with the automobile
7 business being conducted at 2530 Mass Ave.

8 So is that still the case? Is the same operation
9 in both front part of that building facing Mass Ave and in
10 the garage in the rear? Is that still the case?

11 EURI LEGUISAMON: So you're asking me, Euri? Yes,
12 sir.

13 JIM MONTEVERDE: Yep. You use both spaces as the
14 --

15 EURI LEGUISAMON: I use the front. I have, like,
16 I just put up an office, but the back space is a commercial
17 space, and the front I just put up signs and just the
18 outside of it painted it, so when people on Mass Ave go by,
19 they can actually see I'm in the back, you know?

20 JIM MONTEVERDE: Yeah. Okay. Thank you. Give me
21 one second. I'm going to consult with Staff for a moment.

22 GINA NASCIMENTO: Thank you.

1 EURI LEGUISAMON: All right.

2 [Pause]

3 JIM MONTEVERDE: So I'm just consulting with our
4 Staff, because the two previous permits basically allowed an
5 automotive-related, not necessarily tire installation or
6 sale, and they were -- give you the case numbers -- the 1928
7 case was No. 321, and that was the one that allowed the
8 addition at the front of the building, at the front of 2530
9 Mass Ave for the sale of auto accessories.

10 And then second case in 1938 was File Case Z997,
11 that permitted the construction of the one-story building in
12 the back to be used in conjunction with the automotive
13 business conducted at 2530.

14 So really the use now is consistent with what
15 those previous permits granted. And we need to go through
16 this and understand the variance, again, the hardship, which
17 I'd like you to talk about a bit.

18 And I think it's the -- we're here again because
19 the use specifically is not allowed, and we just need to
20 formally accept that use if we so vote to allow you to
21 continue the use that this has had in one shape or another
22 since 1928.

1 So can you talk a bit about the -- what hardship
2 there is that requires the variance being granted, this
3 relief being granted?

4 EURI LEGUISAMON: So yes. The location of the lot
5 in the zoning district is a commercial zone along Mass Ave.
6 so I believe it should be something that I can conduct
7 business with.

8 JIM MONTEVERDE: I'm asking -- yep, I'll read it.

9 EURI LEGUISAMON: Sorry.

10 JIM MONTEVERDE: I'll read you the Ordinance.
11 Because it's really not --

12 EURI LEGUISAMON: Okay.

13 JIM MONTEVERDE: -- about the commercial zone.

14 EURI LEGUISAMON: Okay.

15 JIM MONTEVERDE: The entire -- the lot's zone,
16 Residence B, that's what it is. So the requirements for the
17 variance say a literal enforcement of the provisions of the
18 ordinance would involve a substantial hardship, financial or
19 otherwise, to the petitioner or appellant.

20 And second, the hardship is owing to the
21 circumstances relating soil conditions, shape or the
22 topography of such lot or structures, and especially

1 affecting such land or structure but not affecting generally
2 the zoning district in which it is located.

3 So just -- I think on the one page that was up on
4 the screen a moment ago, you did discuss a rationale for the
5 variance in terms of the hardship.

6 Can you bring that one up again? This sheet?

7 EURI LEGUISAMON: I'm not actually -- I'm not
8 seeing it, so this is like the first question.

9 JIM MONTEVERDE: First question I think you --
10 someone answered in your application, the supporting
11 statement. And it says, "I will lose my livelihood."

12 EURI LEGUISAMON: Yes, yes, yes.

13 JIM MONTEVERDE: "It's my source of income, and I
14 am a father of three. My --" Is that the hardship?

15 EURI LEGUISAMON: Yes.

16 JIM MONTEVERDE: Okay.

17 EURI LEGUISAMON: Sorry.

18 JIM MONTEVERDE: That I assume is the hardship.

19 EURI LEGUISAMON: Yes, that's it, I'm sorry. I'm
20 not looking at the screen. I'm just listening to you guys.
21 I can't really see it. But yes, that's the reason for the
22 hardship.

1 JIM MONTEVERDE: Okay.

2 EURI LEGUISAMON: Yeah. I will lose my -- like,
3 that's my source of income to provide for my kids. I have
4 three minors and it's my livelihood, you know? So I keep on
5 going and try to do good for them, you know?

6 JIM MONTEVERDE: All right.

7 GINA NASCIMENTO: Sorry to interrupt. This is --
8 can everyone hear me?

9 JIM MONTEVERDE: Yeah.

10 GINA NASCIMENTO: May I add something? Didn't
11 want to interrupt.

12 JIM MONTEVERDE: No. Can you introduce yourself?

13 GINA NASCIMENTO: Yes. So this is Gina. I signed
14 on earlier.

15 JIM MONTEVERDE: Yeah.

16 GINA NASCIMENTO: Gina Nascimento.

17 JIM MONTEVERDE: You have something to add to that
18 discussion?

19 GINA NASCIMENTO: Yep. I can definitely add to
20 Euri's statement on it being a hardship, you know. He is a
21 great tenant and has put a lot of work into that property to
22 make it look a lot better than it did when he first moved

1 in. And, you know, with that, he had to put a lot of
2 upfront costs into making it look as good as it does now,
3 and to get it up and running.

4 So, you know, that being said, I never want to
5 work against a tenant and say that they're not perfect in
6 paying rent, but I know -- you know, especially during the
7 holiday season, you know, Euri did fall back in rent, but
8 then he did quickly catch up.

9 So, you know, I would hate to see a tenant that's
10 really put a lot of his -- you know, hard work -- hard-
11 earned money into this and upfront costs to get it up and
12 running.

13 You know, I really would hate to lose a tenant
14 like that -- you know, not just losing him, but something
15 that's already been established and in a zone that, you
16 know, has other commercial properties and businesses.

17 You know, I understand the zoning is what it is,
18 but I would definitely agree with Euri that, you know, it
19 would a really big loss -- not just for us as losing a
20 tenant, but just having a good, established business that is
21 doing better. He has fallen behind. He has caught up with
22 his arrearage, and -- you know, we want to continue with a

1 good relationship.

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

4 MICHAEL LAROSA: Yeah, Jim, I have a question.
5 I'm slightly confused. So we have two older -- basically it
6 looks like it's been used for automotive for almost 100
7 years.

8 So what -- I mean you're talking -- I forget which
9 permit because I don't have it in front of me, but from the
10 thirties it said, "Automotive and Accessory." You know?
11 It's not much more of an accessory than a tire.

12 So I'm confused as to why -- I understand it's now
13 residential, but why wasn't it a continued use from the
14 twenties or thirties?

15 JIM MONTEVERDE: Yeah, that's the discussion we
16 had at sidebar with Staff. And all we know is that this is
17 in front of us. It's been brought up that the proponent
18 needs a variance since the Use Regulations under 4.37.8
19 specifically do not allow the automotive use in the
20 Residence B district; that the proponent needs a variance to
21 be able to continue that, even though they have been --
22 that's what the previous actions by the city have allowed.

1 Thats study my best explanation at the moment.

2 MICHAEL LAROSA: Yeah, that's kind of my
3 confusion. I mean, it's kind of along the lines of -- not
4 to equate it to what we just did, but the loading dock
5 that's already there and being used --

6 JIM MONTEVERDE: Yes.

7 MICHAEL LAROSA: -- in that manner.

8 JIM MONTEVERDE: Correct.

9 MICHAEL LAROSA: So we're talking about a garage
10 that's been used as a garage for 100 years and just want to
11 continue to do so.

12 JIM MONTEVERDE: It's been an automotive-related
13 use, both --

14 MICHAEL LAROSA: Yeah, I'm sorry. Not a garage,
15 an automotive --

16 JIM MONTEVERDE: -- and the garage, this is one is
17 specifically about the garage, although I think it involves
18 the front of the building as well, since that auto use is
19 now allowed on that lot. And then this would basically
20 formalize to allow the use on that lot -- to continue.

21 MICHAEL LAROSA: Okay. so I guess that was my --
22 that was -- I think that answers my question.

1 JIM MONTEVERDE: Yep.

2 MICHAEL LAROSA: This is more or less for us to
3 formalize what's already --

4 JIM MONTEVERDE: Correct.

5 MICHAEL LAROSA: -- going on.

6 JIM MONTEVERDE: Okay. Any --

7 CAROL AGATE: The first one was automotive parts,
8 right?

9 JIM MONTEVERDE: The 1928 action was for the sale
10 of auto accessories.

11 CAROL AGATE: Auto accessories.

12 JIM MONTEVERDE: Yep.

13 CAROL AGATE: I mean, I really have no way of
14 knowing whether tires are considered accessories. I'm
15 thinking more of a shop that has, you know, window cleaner
16 and stuff like that, not tires.

17 I mean, tires are -- it's -- there are houses near
18 there where the smell as you walk by is just overwhelming.
19 And yet, if they already have the permit, then I really
20 don't understand what we're even continuing it, if it's
21 already been granted? If they already got the --

22 JIM MONTEVERDE: Staff will help us with that

1 conundrum.

2 DANIEL HIDALGO: Can I just ask how long the
3 current tenant has been there?

4 JIM MONTEVERDE: Sorry? Oh, how long the current
5 tenant has been there?

6 DANIEL HIDALGO: Yeah, I'm sorry I don't know who
7 -- I don't have a name in front of me. Mr. Euri, is it?

8 JIM MONTEVERDE: Euri?

9 EURI LEGUISAMON: Yes, Euri. Yes, hi.

10 JIM MONTEVERDE: Yep. How long have you been at
11 this location?

12 EURI LEGUISAMON: Close to a year.

13 DANIEL HIDALGO: Okay, thank you.

14 JIM MONTEVERDE: A year. Okay. And what was it
15 before that? The other person who was calling in?

16 GINA NASCIMENTO: Yep, that was a -- it was a
17 window tinting company that we had there before, and --

18 JIM MONTEVERDE: Yeah, that's --

19 GINA NASCIMENTO: -- during COVID, they fell
20 behind, and then we went vacant for a few -- or close to a
21 year, right before Euri.

22 JIM MONTEVERDE: Yep. I think that's the history.

1 So it -- I think some of the photos in the file show a
2 little advertising flat out in front that says, "Tinting" so
3 I guess that was the business a year or so ago. And then
4 Euri came along and rented the property and to use it as for
5 a wholesale tire and installation, correct?

6 EURI LEGUISAMON: Yes, wholesale retail, yes.

7 JIM MONTEVERDE: Yeah. Okay. Daniel, did that
8 answer your question?

9 DANIEL HIDALGO: Yes. It answered the recent
10 history, yeah. Thank you.

11 JIM MONTEVERDE: Carol, did that answer your
12 question at all?

13 CAROL AGATE: Well, it answers it, but I really
14 don't know quite what to do with it.

15 JIM MONTEVERDE: Right.

16 CAROL AGATE: You know, when this permit was
17 granted, they didn't have electric tools, and the neighbors
18 --

19 JIM MONTEVERDE: Yep.

20 CAROL AGATE: -- had the noise coming from there.
21 It's -- it's really difficult. It seems so out of our
22 realm.

1 JIM MONTEVERDE: Well, in a way, yeah. Hold on a
2 moment. We'll do a little sidebar here with Staff. All
3 right. Turn it over to Staff. Stephen?

4 STEPHEN NATOLA: Case 321 from 1928 allowed the
5 appellant to erect a building thereon for the sale of autos.
6 Case 997 from 1938 allowed for the construction at the rear
7 of the premises to be used in connection with the automobile
8 business now being conducted at 2530 Mass Ave in order to
9 keep the same fully occupied.

10 JIM MONTEVERDE: So that's as much as we have in
11 the record. Talks about accessories. I don't know what the
12 use was or what they were doing in the building, in the
13 front part of the building, in 1938, when they were granted
14 the right to build a one-story addition in the back --
15 basically the garage in the back, and to be used in
16 connection with the business being conducted in the front
17 building? Yeah. I don't know what that business was.

18 Yeah, it's just generically called an automobile
19 business from 1938 -- could be anything.

20 So I agree, that's part of the issue we're resting
21 with is just what do you think could be allowed?

22 And again, under the Ordinance, the 4.37.h

1 automotive garage just says it's not allowed. Doesn't
2 differentiate. So I'm not able to answer your question too
3 well, Carol.

4 Any other questions?

5 CAROL AGATE: Well --

6 JIM MONTEVERDE: Go ahead.

7 CAROL AGATE: I guess I would figure that auto
8 accessory does not include tires, but I --

9 JIM MONTEVERDE: I would concur --

10 CAROL AGATE: -- the legal definition of that I --

11 JIM MONTEVERDE: Yeah.

12 CAROL AGATE: -- really am not in a position to
13 say.

14 JIM MONTEVERDE: No, I would concur, except that
15 it certainly seems like that's morphed. And that was part
16 of the relief that was granted in 1928.

17 Again, what I just -- I have no idea what they
18 were granting -- what the use was in 1938, where they were
19 granted the right to build the garage in the back for
20 "automobile business," it says; that's all it says. I don't
21 know what they were doing, whether tires weren't involved or
22 not, I don't know. That's what we have in front of us.

1 CAROL AGATE: Yep.

2 JIM MONTEVERDE: Any other questions from

3 GINA NASCIMENTO: May I ask --

4 JIM MONTEVERDE: -- from members of the Board?

5 GINA NASCIMENTO: Sorry.

6 JIM MONTEVERDE: Any other questions from members
7 of the Board? No? If not, I think I'm going to go to
8 public comment. We have several pieces of correspondence in
9 the file. I will try to summarize them, but I suspect
10 someone may be calling in.

11 We have a letter from Jennifer Woodfin dated
12 yesterday, May 22, in opposition. Rationale -- is concerned
13 about safety and cultural impact to the neighborhood.
14 Driveway at the property is extremely narrow with poor
15 visibility, not well-suited to vehicles entering or exiting.
16 And vehicles are exiting and entering at high speed.

17 Also, that there are other tire stores nearby.
18 They supply the graphic and basically there's not a
19 rationale for this one in this location.

20 Let me continue. Hector Penagos from this --
21 yesterday, May 22, in opposition. And there's a lengthier
22 description here, which I will just read the titles of.

1 They believe the previous cases that the petitioner cited
2 that I just read through are not applicable.

3 They cite poor business practice for Pikipola
4 Tires & Auto Service, saying the approval of this variance
5 would nullify the intent or purpose of the Cambridge Zoning
6 Ordinance because there's an increased likelihood of
7 transmission to mosquito-borne diseases.

8 That's basically from tires being stored outside
9 and rainwater accumulating in them, and that being a
10 breeding ground for mosquitos.

11 Second, advertised business activities contradict
12 the petition of the proposal. It says, "In addition to the
13 sale of tires, this facility is used to sell car batteries
14 and perform mechanical repairs."

15 There's an advertisement that says, "New and used
16 tires as well as used radios and car batteries." So we're
17 actually potentially doing more than they are requesting in
18 their -- or stating in their proposal.

19 Third, it's a substantial fire hazard. And again,
20 that's the tires being stored -- stored outside.

21 Four, potential health hazard through air
22 pollution. Fumes from burning tires -- I don't know if

1 there are any burning tires on site.

2 Five, the potential soil --

3 EURI LEGUISAMON: No.

4 JIM MONTEVERDE: -- and water pollution -- excuse
5 me, let me just read through this.

6 And six, it is a blueprint to violate Zoning
7 Ordinance if we were to approve this.

8 In summary, the petitioner's business is located
9 in a residential district not consistent with their business
10 activities and approval of this petition carries several
11 health and environmental hazards.

12 JIM MONTEVERDE: Let me keep going. There's more.
13 One from Kathy Dutra, May 14, in opposition; saying they
14 believe this site is not conducive to such a business.

15 They state the space is not adequate to store the
16 number of tires that are on the property. The tires are
17 piled behind house, and it's blocking a rear entrance of the
18 building.

19 The business does not do enough business to
20 warrant the number of tires sitting on the -- stored on the
21 property.

22 Tires are not being put on manually; using air

1 compressors -- Carol, this was your point -- and air drills
2 to install them, and this added noise to our residential
3 neighborhood. Space also cannot accommodate multiple
4 vehicles, putting a strain on already limited parking space.

5 Tire stored on this property are extreme for their
6 business needs. There are several stores around that do
7 similar business.

8 And they're saying they do not need another
9 location.

10 And the last time I checked -- this is from
11 Kathleen Dutra -- tires behind the house are surrounding the
12 residents' trash containers, not allowing access for the
13 containers to be brought out on trash day.

14 Next Dr. Robert McGowan, May 8, writing in
15 opposition. "The area is not large enough to store large
16 amounts of new and used tires." They create a fire hazard.
17 "Business also 'in the past' has stored tires on the roof of
18 the garage until the city put a stop to it."

19 Same issue about using air compressors and air
20 drills, and the noise factor for the residential
21 neighborhood. The driveway is narrow, does not have the
22 capacity to hold several cars without it impacting Mass Ave.

1 Tires are stored outside, could create a problem
2 with rain accumulation, possible infestation of mosquito and
3 larvae, and business is not in an industrial area, as stated
4 in the application form.

5 And additionally, there are three businesses less
6 than a quarter of a mile away that already provide tire
7 service on the opposite side of Mass Ave.

8 And that is correct -- they appear to be former
9 service stations that have been converted.

10 That is the sum and substance of the
11 correspondence we have in the file. I'll now open it to
12 public comment. Any member of the public who wishes to
13 speak should now click the icon at the bottom of your Zoom
14 screen that says, "Raise hand."

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

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

22

1 STEPHEN NATOLA: Hector?

2 HECTOR PENAGOS: Hi. My name is Hector Penagos,
3 and I am on 18 Brookford Street. I sent a correspondence in
4 opposition to this petition. And what I wanted to say is
5 one of your members asked the distinction between,
6 "Accessories" and "Parts." And the relief that you
7 mentioned from the 1928 specifically is about things that
8 you add to a car that is not needed for the car to function.
9 That is not the function of tires; tires are parts.

10 And so, with the relief that is being sought right
11 now, it's the installation of parts to a car. That's a
12 different permission that was given in 1928.

13 And speaking with several neighbors, I think we're
14 really concerned about the health hazards posed by this
15 business. The idea of water being in those tires is a
16 serious potential breeding ground for mosquitos, and that
17 can end up in people dying.

18 The statistics are for the viruses that -- for the
19 mosquitos that grow up in New England, it's 10- to 30
20 percent for the two types of mosquitos that are here.

21 So a pretty serious thing that is -- I think -- I
22 believe the intent of the Ordinance of Cambridge is to

1 protect the citizens, provide good healthy environment to
2 live, diminish traffic, and all these things are in clear
3 opposition to the business that is being performed in this
4 location.

5 I also noted that on the website, they actually do
6 advertise oil changes, and they advertise brake repair
7 accessories. Those are actual -- you know, mechanical
8 services, which they explicitly said they wouldn't do at
9 this location.

10 JIM MONTEVERDE: Thank you for your calling in.
11 Is there anyone else wishing to call in?

12 EURI LEGUISAMON: When can I speak?

13 JIM MONTEVERDE: Sorry? No? No one else calling
14 in?

15 EURI LEGUISAMON: Can --

16 JIM MONTEVERDE: I will close public testimony.

17 EURI LEGUISAMON: Can Euri speak? Can I speak?

18 JIM MONTEVERDE: Who? Is this Euri?

19 EURI LEGUISAMON: Yeah, this is Euri. I just want
20 to speak.

21 JIM MONTEVERDE: Yep. Go ahead.

22 EURI LEGUISAMON: So all I do there, and all I

1 specialize in is just tires, new and used. There was an add
2 that I had from my previous business that it wasn't supposed
3 to be there; my employees tore it up.

4 All I want to do there is to just do tires.
5 There's not going to be oil changes; there's not going to be
6 mechanics; it's just tires, you know?

7 I'm going to have tires -- I do wholesale;
8 sometimes I have the tires outside just for, like, hours.
9 And then I push them all and bring them -- I do a lot of
10 wholesaling.

11 And retail, when the customer comes in and asks
12 for a tire, and I can sell them, and if anyone wants to
13 install it, I'll install it. My operation is mainly tires.
14 It's not -- I'm not doing all of the stuff that he says I'm
15 doing. 100 percent on that. I'm the owner. And it looks
16 that way, but it's not going -- it's not that way.

17 You know, that's all I have to say.

18 JIM MONTEVERDE: So can I ask you just explain
19 your -- you -- the application says, or the advertisement
20 says, "Auto Retail of Wholesale Tires with Installation."

21 EURI LEGUISAMON: Exactly. I -- yes.

22 JIM MONTEVERDE: So wholesale tires, can I drive

1 up and buy a set of tires from you and have you install
2 them?

3 EURI LEGUISAMON: Yes.

4 JIM MONTEVERDE: Is that the business, or do you
5 sell it wholesale --

6 EURI LEGUISAMON: Yeah.

7 JIM MONTEVERDE: -- to another distributor?

8 EURI LEGUISAMON: So I sell wholesale, and then if
9 you want -- if you come into my place and you want to take
10 four tires, then you say, "Hey, can you put them on my
11 vehicle?" I'll say, "Yes, why not?" It's part of the tires.

12 And accessories: I've been doing this for 23
13 years; accessory has to do with everything in the vehicle.
14 The main part is the tires. Can't move the vehicle without
15 the tires.

16 JIM MONTEVERDE: Thank you. Okay. Understood.
17 Thank you.

18 Hector, you have some additional comment?

19 HECTOR PENAGOS: Yes. I do. It is not that the
20 tires are only set outside temporarily -- outside
21 unprotected. I submitted a picture showing that -- which I
22 took just a few days ago when it was raining so that you can

1 see how that's a potential -- a very likely potential source
2 of mosquitos. It's just like they're sitting outside the
3 whole time. It's not just during the day when they're
4 advertising the tires.

5 So that's a really poor operation to that.

6 JIM MONTEVERDE: Yep. we understand. Thank you.
7 Thank you for calling in.

8 Is there anyone else calling in? I'm going to
9 close public testimony. And time for a discussion among
10 members of the Board.

11 STEVEN NG: Jim, I'm wondering if there are other
12 similar businesses just down the street, did those
13 particular businesses have to go through the appeal process
14 as well with the Board?

15 JIM MONTEVERDE: I don't know. I know there are
16 -- or at least I thought I saw it. I went by twice. But
17 there are what looked like or had been service stations that
18 have been --

19 STEVEN NG: Yeah, yeah. they have --

20 JIM MONTEVERDE: -- repair --

21 STEVEN NG: -- for days, and there's nothing
22 outside.

1 JIM MONTEVERDE: Right. they're on the opposite
2 side.

3 STEVEN NG: -- some parking, yeah. Yeah.

4 JIM MONTEVERDE: I don't know what the -- and I --
5 I don't know what the zoning -- if it's a similar zoning
6 district or if it's been zoned otherwise. I don't know. So
7 I can't answer that question.

8 CAROL AGATE: Well, I think the opposition was
9 pretty persuasive. I feel for the petitioner, who has set
10 up this business. I hope maybe he can set up a business
11 selling auto accessories, which really could be used in the
12 neighborhood. We don't have anything like that around here.

13 But I can see that there are so many homes around
14 there, and that just isn't a suitable use of the property.
15 And even though I can see that there is some hardship for
16 him, hardship alone is not enough when it is that much of a
17 disturbance to the neighborhood.

18 JIM MONTEVERDE: Thank you, Carol. Anyone else
19 for discussion?

20 DANIEL HIDALGO: Yeah. I find this a very
21 difficult case. Just as -- you know, given the -- possibly
22 the historical record, I would feel much better if we knew a

1 little bit more about the history of the use of that space,
2 so we can -- you know, if it had been used for more kind of
3 - business more closely related to what the current
4 business, then I feel like we would be obliged to grant it.

5 But without that kind of record, we're left
6 interpreting what this -- you know, old variance or cases
7 meant.

8 And so, I'm -- you know, I guess I'm inclined to
9 deny because I just feel like a positive case -- a strong
10 positive case hasn't been made, while the neighbors have
11 some legitimate complaints.

12 But I -- basically I just wish I knew a little bit
13 more about the history of the use of the --

14 EURI LEGUISAMON: Sorry, this is Euri again.

15 JIM MONTEVERDE: No, Euri, hold on. Euri, hold on
16 a second. This is -- you get a turn to jump in later. But
17 this is -- this is just among the Board members for the
18 moment. So anyone else have a -- any discussion?

19 MICHAEL LAROSA: Yeah, Jim. Like Daniel just
20 said, I'm sympathetic to the neighbors, but with the same
21 respect, that's -- that stretch of Mass Ave is commercial
22 storefronts, diagonal from Jack's Gas, diagonal from Mavis

1 Tire, Valvoline up the street. It's been used as commercial
2 as long as I can remember, and I was born here.

3 So as much as I feel bad for residential
4 neighbors, I also -- it's like people who move next to
5 Fenway Park and then complain about noise. I mean, it's
6 been used for an automotive-related thing for almost 100
7 years. And now we're going to say no, you can't do that
8 anymore.

9 It just doesn't feel right to me, I guess. I
10 don't know how to say it, but --

11 And as to the conversation about accessories, I
12 mean in 1920 -- I don't think there were any auto
13 accessories other than tires and maybe horns. I don't think
14 anybody was buying air fresheners or stereos. So I'm
15 guessing the tires probably came with the territory.

16 I know that's a little bit of a leap, but it's not
17 like I'm dying for the business to be there, but I feel like
18 we are already not doing great with small business in
19 Cambridge by limiting it.

20 So to be honest, despite the neighboring
21 complaints, if they can make a good argument, I'd be more
22 likely to go for it -- just for that reason alone. But it

1 is already what I would think is an existing use.

2 JIM MONTEVERDE: Okay. Thank you.

3 STEVEN NG: I'm kind of feeling similar to
4 Michael's position; is that in this immediate area, there
5 are commercial businesses selling tires. And there is some
6 historic precedent at this particular site that it's been
7 allowed. But maybe, you know, 100 years ago but in between
8 maybe not so much, but it has happened or been decided upon.

9 But that doesn't give -- you know, license to the
10 current proponent that, you know, similar to the other
11 businesses, he's got to run a cleaner shop. You know, it's
12 got to be done properly -- tires stored, everything indoors.

13 So I mean I'm -- want to be supportive of his
14 application, but I would be inclined to put a -- quite a few
15 qualifications in there to satisfy the neighbors' concerns
16 about their safety -- health and safety. So that's kind of
17 where I would stand.

18 JIM MONTEVERDE: Thank you.

19 MICHAEL LAROSA: Steve, I was thinking the same
20 thing, but what -- we said he already has permits, right?

21 JIM MONTEVERDE: Well.

22 MICHAEL LAROSA: Not zoning wise, but --

1 JIM MONTEVERDE: I don't know what he has as a
2 license or a permit. I don't know --

3 MICHAEL LAROSA: Yeah.

4 JIM MONTEVERDE: -- what it is.

5 DANIEL HIDALGO: Yeah, I don't. I --

6 JIM MONTEVERDE: So --

7 DANIEL HIDALGO: -- am not sure. But I'm just --

8 JIM MONTEVERDE: Yeah. So I was thinking along
9 the lines as what Steven just mentioned; so that would be
10 conditions. And the conditions would be that the tires be
11 stored inside the garage that had -- and I think this is a
12 question for the proponent, but -- if he's doing tire
13 installation, if that can be done indoors with the door
14 closed, and if he can -- that's basically to address the
15 noise, that addresses the water and the health concern.

16 And I think the last thing, I don't know how to
17 put this as a condition, but just to control the traffic on
18 the driveway so that people are entering and exiting that --
19 exiting particularly into Mass Ave slowly, not doing so at
20 high speed.

21 I think if we could agree on some conditions that
22 we think would satisfy the neighbors, or help resolve some

1 of issues for the neighbors, then I think there's a way to
2 -- at least I could see my way to granting approval with
3 conditions.

4 DANIEL HIDALGO: Jim, yeah. I just want to say
5 that I would feel much better about supporting this if we
6 could work something out like that.

7 JIM MONTEVERDE: Okay. Carol, would you be
8 amenable to a positive vote, assuming there are conditions
9 that address the neighbors' concerns?

10 CAROL AGATE: I really don't know that much about
11 enforcement of conditions. Does the Staff actually check
12 regularly, if the neighbors would have to complain? I mean,
13 how would it work once you put in conditions?

14 Also, it's hard to believe that on that site it
15 would be possible to work inside.

16 JIM MONTEVERDE: Well, I'm looking at the photo
17 that was supplied -- one of the photos that was supplied.
18 And it looks like -- again, controlling the number of tires
19 that are stored there, there is space for a vehicle inside.
20 Do you have this photo as part of the record?

21 CAROL AGATE: Is this something the Staff can
22 inspect and come back to us with what --

1 JIM MONTEVERDE: I don't think that's going to
2 happen.

3 CAROL AGATE: Mm-hm.

4 JIM MONTEVERDE: We just have --

5 MICHAEL LAROSA: Carol, I think that was why I
6 mentioned earlier licensing. Because if the business
7 requires an annual license, then I would imagine licensing
8 would be on top of -- that was the only reason I brought it
9 up earlier.

10 If he's already got to get licenses annually, I
11 would imagine there are inspections and other checks and
12 balances. But I don't know for sure, because I don't know
13 what license he has.

14 CAROL AGATE: Well, what would be the procedure?
15 Right now, we would wind up drafting all the conditions?

16 JIM MONTEVERDE: So I think at the moment just
17 from listening to everyone, that would be of the five of us
18 - and I'm assuming, Carol, you're not comfortable with the
19 conditions or the enforcement thereof, but the other four of
20 us are -- it would still be enough of a -- if we can agree
21 on conditions, then that would be -- we'd have enough of a
22 -- we'd have a quorum to be able to --

1 CAROL AGATE: Yep.

2 JIM MONTEVERDE: -- accept this with you being in
3 opposition. So with that in mind, Michael, do you have any
4 suggestions for conditions?

5 MICHAEL LAROSA: I was just Googling to look at
6 the location, even though I think I know it. But I mean
7 with the two biggest complaints outside of the use itself
8 seem to be potential traffic, although it looks like the
9 driveway might fit one or two cars if that. So maybe put up
10 a backup mirror and a sign to exit slowly or something.

11 JIM MONTEVERDE: Yep.

12 MICHAEL LAROSA: Or something that makes a noise,
13 I don't know. And then maybe something that says either
14 they've got to be stored inside or if they're outside,
15 they're covered, or inside of -- well, I don't think he has
16 room for a shed, I don't know.

17 JIM MONTEVERDE: Yep.

18 MICHAEL LAROSA: So maybe stored inside.

19 JIM MONTEVERDE: Yep.

20 MICHAEL LAROSA: And I think that would address
21 most of outside of the general use, that would seem to
22 address most of the concerns.

1 JIM MONTEVERDE: And the other thought I had just
2 from the photo that was up on the screen previously where it
3 looked like there was a bay available, looks like it's got a
4 lift in it to -- for a vehicle to go inside.

5 So when they do the tire installation, I assume if
6 they would close the door, I'm just trying to deal with the
7 acoustic, the noise that the neighbors had complained about.

8 If we'd say they just have to -- you know, get it
9 inside, get the vehicle inside and do the tire installation
10 with the doors closed just to keep it as quiet as possible.
11 Does that make any sense to anyone else?

12 MICHAEL LAROSA: Yep.

13 DANIEL HIDALGO: Yeah, that sounds sensible.

14 JIM MONTEVERDE: Okay.

15 STEVEN NG: Yeah, that makes sense.

16 JIM MONTEVERDE: They're not going to enforce it
17 anyways. So leave it. Sorry. I'm getting input from my --
18 from Staff.

19 Euri, are you still on the line?

20 EURI LEGUISAMON: Yeah, still here.

21 JIM MONTEVERDE: So what's happening here is we
22 can vote to approve the variance with conditions, basically

1 meaning if you don't comply with the conditions, technically
2 the variance is withdrawn.

3 So -- and they will be -- and this is in order to
4 address the issues from the neighbors -- one, to address the
5 driveway, the neighbors' issue about concern; and we'd ask
6 that you install a backup mirror so that someone can safely
7 enter and exit the drive, and also a sign in the drive that
8 tells your customers to exit slowly, that's one.

9 Two, that all the tires are to be stored indoors,
10 inside, not outside.

11 And three, that installation of tires will happen
12 inside your facility, door down. And again, that's for the
13 noise that the neighbors -- some of the neighbors have
14 complained about.

15 Do you think you can --

16 EURI LEGUISAMON: So --

17 JIM MONTEVERDE: -- you can operate with those
18 conditions?

19 EURI LEGUISAMON: I just want to add something.
20 My working grounds -- like, there's -- what I use, see, I
21 have a -- that place can hold let's say -- it's not that
22 busy now because I'm trying to establish a business, it's

1 not that I have a business rolling and cars are in there
2 every day, five or six cars a day. If I get a couple a day
3 throughout the whole year, I'm lucky enough to be -- you
4 know, two or three cars. I don't understand how the
5 neighbors say that.

6 And no one in there -- no one would back up
7 speeding. Why would they do that? Because Mass Ave is
8 right three. Everybody that goes in there they back up as
9 slow as a turtle. They don't want to hit the highway. They
10 don't want to hit -- no one's going to exit, you know --

11 JIM MONTEVERDE: I understand.

12 EURI LEGUISAMON: So what -- say outside, I do
13 something with the tires, for example. It's a -- it's not
14 an air gun with a compressor, it's an electrical gun. You
15 can't hear that. Know what I mean?

16 I think that -- and the main issue that I'm with
17 them -- with you guys, okay, the tires are stored inside, I
18 can do that. No tires outside, fine. You know? Because
19 the ones that I keep them outside is the wholesale. And
20 I'll move them. I don't know why I have to bring in a
21 vehicle, shut the door when it's -- when I use electric
22 guns.

1 JIM MONTEVERDE: It's for the noise that your
2 neighbors are complaining about. We're just trying to
3 address the neighborhood. I mean, your choice is --

4 EURI LEGUISAMON: Yeah, but --

5 JIM MONTEVERDE: -- we either can come to some
6 conclusion or agreement on conditions, or on the flip side,
7 it sounded like you may -- go to a vote; you may not have
8 the votes to pass this, in which case you could be denied.
9 I'm just trying to be polite and let you move forward.

10 EURI LEGUISAMON: Exactly. I will do that.

11 GINA NASCIMENTO: I think those conditions are
12 more than fair. This is Gina. Those conditions are more
13 than fair and if we need to -- you know, build any type of
14 shed or storage for these tires to be indoors, we can comply
15 with that. So I would imagine --

16 EURI LEGUISAMON: All right.

17 GINA NASCIMENTO: -- you could say that these are,
18 you know, acceptable conditions.

19 EURI LEGUISAMON: All right. No problem.

20 JIM MONTEVERDE: Okay?

21 EURI LEGUISAMON: I just wanted to express myself,
22 but I'm -- I accept the conditions, yes, I do. I just

1 wanted to say that just so you guys have an idea how it
2 operates there, you know? But yeah, I accept them.

3 JIM MONTEVERDE: Okay. So any other discussion
4 among members of the Board? Otherwise, I will make a
5 motion.

6 The Chair makes a motion to grant relief from the
7 requirements of the Ordinance under Sections 4.37.h,
8 Automotive Garage, which does not allow the automotive
9 garage use in the Residence B district; and Article 10
10 Section 10.30 granting of a variance -- the proponent is
11 talking about the hardship if they're not granted the
12 variance -- on the condition that the work proposed conforms
13 to the drawings -- there are no drawings.

14 And further, that we incorporate the supporting
15 statements and dimensional forms -- there are none --
16 submitted as part of the application.

17 And further that we that the variance is granted
18 incorporating the following conditions:

19 One, that the proponent install -- this is
20 relative to the driveway -- backup mirrors so that someone
21 can see oncoming traffic as they back up onto Mass Ave and
22 that they post a sign to basically tell their patrons to

1 exit slowly.

2 Two, that all tires are to be stored inside. No
3 tires are to be left outside.

4 And three, and that tires will be installed inside
5 the building with the door closed.

6 Lastly, I have one question for you -- sorry, that
7 I forgot to ask, Euri, if you're still there.

8 EURI LEGUISAMON: I'm here.

9 JIM MONTEVERDE: Did you visit the -- did you
10 apply for a signage permit?

11 EURI LEGUISAMON: For a signage permit? You mean
12 the signs that I have outside?

13 JIM MONTEVERDE: The signage permit, yeah, for
14 everything you've put outside the building and on the
15 garage?

16 EURI LEGUISAMON: No.

17 JIM MONTEVERDE: Okay. I suggest you apply for a
18 signage permit.

19 EURI LEGUISAMON: I didn't --

20 JIM MONTEVERDE: I suggest you apply for a signage
21 permit.

22 All right. On the motion, then.

1 EURI LEGUISAMON: Okay. Board members, we'll do
2 this by a voice vote. Carol?

3 CAROL AGATE: In favor.

4 JIM MONTEVERDE: Thank you. Daniel?

5 DANIEL HIDALGO: In favor.

6 JIM MONTEVERDE: Steven?

7 STEVEN NG: In favor.

8 JIM MONTEVERDE: Michael?

9 MICHAEL LAROSA: In favor.

10 JIM MONTEVERDE: And Jim Monteverde in favor.

11 [All vote YES]

12 JIM MONTEVERDE: Yeah. That's five in favor. The
13 relief is granted with the conditions we just mentioned.

14 Thank you. And I think that's it for the night.

15 Thank you.

16 COLLECTIVE: Thank you, Jim.

17 JIM MONTEVERDE: Thank you. See you later in
18 June. Bye-bye.

19 COLLECTIVE: Bye-bye. Goodnight.

20 [8:16 p.m. End of Proceedings]

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CERTIFICATE

Commonwealth of Massachusetts
Middlesex, ss.

I, Lynne Blaszak, Notary Public in and for the
Commonwealth of Massachusetts, do hereby certify that the
witness whose deposition is hereinbefore set forth, was
duly sworn by me and that such deposition is a true record,
to the best of my ability, of the testimony given by the
witness.

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.

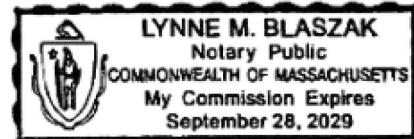
In witness whereof, I have hereunto set my hand this
14th day of June 2024.



Notary Public

My commission expires:

September 28, 2029



A				
ability 25:6 101:7	55:13 56:7 adaptive 48:20 49:16 52:3	85:4 advice 22:10	air 77:21 78:22 79:1,19,19 88:14 96:14	anyway 5:15 10:17
able 12:13 14:22 28:12 50:22 51:8 55:22 69:21 75:2 92:22	add 23:22 40:21 41:9,12 67:10 67:17,19 81:8 83:1 95:19	advised 60:13 aesthetic 34:15	Alex 32:16 alley 38:21 41:12,15,15 42:1	anyways 94:17 apologize 59:16 59:21 60:15
Absolutely 51:21	added 19:16 30:14 39:8 41:22 44:4 79:2	affirmative 21:20 46:19 57:19	alleyway 38:22 Allison 41:22	appeal 1:1 3:8 3:13 10:4 20:18 60:14 85:13
abuts 38:21	addendum 44:5	Agate 1:9 3:5 4:9,10 5:4 6:13 7:4,17 8:2 9:4 18:10 19:10	allow 7:10 23:13 64:20 69:19 70:20 98:8	appear 80:8 appears 45:9
accept 64:20 93:2 97:22 98:2	adding 14:10,16 14:16 15:14	address 8:13 24:9 33:2 42:21 55:7 63:5 80:18 90:14 91:9 93:20,22 95:4 95:4 97:3	allowable 25:10	appellant 65:19 74:5
acceptable 97:18	addition 33:12 53:3 62:18,22 64:8 74:14 77:12	addressing 26:1	allowed 61:12 62:2,18 64:4,7 64:19 69:22 70:19 74:4,6 74:21 75:1 89:7	Applicability 41:22
access 45:11 79:12	additional 84:18	adequate 78:15	amenable 91:8	applicable 77:2
accessed 49:22	additionally 80:5	adjacent 45:14	amend 9:8	applicant 58:15
accessories 63:1 64:9 71:10,11 71:14 74:11 81:6 82:7 84:12 86:11 88:11,13	address 8:13 24:9 33:2 42:21 55:7 63:5 80:18 90:14 91:9 93:20,22 95:4 95:4 97:3	adjoining 45:19	amended 41:21	applicants 3:19 48:11
accessory 69:10 69:11 75:8 84:13	addresses 90:15	administers 26:5	amendment 10:3	application 34:19 36:14 39:20 40:4 46:7 49:9 57:7 66:10 80:4 83:19 89:14 98:16
accommodate 49:13 79:3	addressing 26:1	administrativ... 23:7	amount 26:8 55:17	applications 13:15
accommodated 49:17 50:13	adequate 78:15	agenda 2:11 5:18 9:21 10:18 13:4 28:6	Alterations 36:5 45:6	applied 44:12 62:21
account 15:20	addresses 90:15	ago 9:14,19 28:18 43:13 66:4 73:3 84:22 89:7	amendable 91:8	apply 99:10,17 99:20
accumulating 77:9	addressing 26:1	agree 11:9 12:17 15:22 21:18 33:15 68:18 74:20 90:21 92:20	amend 9:8	appreciate 47:8
accumulation 80:2	adequate 78:15	agreed 21:19 50:18	amended 41:21	appropriate 23:11
acoustic 94:7	adjacent 45:14	agreement 12:17 47:5 97:6	amount 26:8 55:17	Appropriaten... 40:18
action 71:9 101:9,11	adjoining 45:19	ahead 8:2 12:18 18:19 23:1 41:14 44:19 75:6 82:21	amounts 79:16	approval 13:12 39:2 41:13 77:4 78:10 91:2
actions 62:10 69:22	administers 26:5		Anderson 24:13 24:14,15,16	approve 11:8 25:6 78:7 94:22
actively 26:15	administrativ... 23:7		announcement 11:19	approved 3:11 51:1
activities 77:11 78:10	adopted 3:10		annual 92:7	architect 38:13
Acts 3:10	advantageous 55:18		annually 92:10	architects 36:9
actual 82:7	adversely 45:15		answer 73:8,11 75:2 86:7	
adapative 52:22	advertise 82:6,6 advertised 77:11		answered 19:14 66:10 73:9	
	advertisement 61:8 77:15 83:19		answers 70:22 73:13	
	advertising 73:2		anticipate 54:6	
			anybody 24:2 35:16 38:6 88:14	
			anymore 88:8	

48:17	autos 74:5	61:10 64:4	65:1 87:1,12	bring 6:6 10:19
area 31:12 49:3	avail 51:8	69:5 70:19	88:16	11:19 39:6
49:18,20,22	available 21:13	74:15 76:18	Blaszak 101:4	66:6 83:9
50:3,14,17,21	94:3	77:8 87:12	blocking 78:17	96:20
51:1,5 52:8,11	Ave 24:16 50:20	90:14 94:22	blueprint 78:6	broadcast 3:15
54:5 79:15	61:18 63:1,7,9	98:22	Board 1:1 3:8	Broadway 2:13
80:3 89:4	63:18 64:9	batteries 77:13	3:13,19 4:5	38:6,21 40:16
argument 88:21	65:5 74:8	77:16	5:17 9:7 10:4	41:12
arrearage 68:22	79:22 80:7	bay 94:3	10:13,14 11:15	broke 44:13
Article 98:9	87:21 90:19	becoming 23:9	12:16,17 13:13	Brookford 81:3
as-of-right	96:7 98:21	bed 11:4	15:5 16:1	brought 20:3
11:14	Avenue 1:5 2:14	bedroom 28:19	20:18 21:16	69:17 79:13
aside 5:11 44:1	2:15 48:6,21	behalf 59:12,18	22:7,20 24:15	92:8
asked 9:14 81:5	56:22 58:6	believe 9:15	24:20 26:2,4	bubbled 43:22
asking 4:5 28:8	aware 13:11	15:17 44:11	30:7 31:20	build 38:13 44:7
30:12 63:11	49:2	60:14 63:4	33:8,17 35:7	46:3 62:21
65:8	B	65:6 77:1	40:12 43:5	63:3 74:14
asks 83:11	B 61:11 62:1	78:14 81:22	45:2 48:10	75:19 97:13
assistance 51:9	65:16 69:20	91:14	49:2,8,10	building 39:3,21
assume 16:10,12	98:9	benefit 20:7	50:17 51:2,9	39:22 40:1,5
17:13 66:18	baby 28:22	Benzan 32:15	51:11 53:1,7	41:14,17 48:20
94:5	back 9:20 10:8	best 13:10 70:1	53:19,20 54:20	48:22 49:5,8
assuming 91:8	10:19 13:1	101:6	55:12 56:5,9	49:12,16 50:8
92:18	19:19 21:12	better 28:17	56:12 69:3	50:20 52:4,18
at-grade 49:18	22:13 53:17	67:22 68:21	76:4,7 85:10	52:22 53:13
Atlanca 32:6	59:22 63:16,19	86:22 91:5	85:14 87:17	54:12 62:19,22
attendance 4:6	64:12 68:7	beyond 11:22	98:4 100:1	63:4,9 64:8,11
attic 15:15 23:13	74:14,15 75:19	39:5	Boehm 1:8 3:4	70:18 74:5,12
audible 4:6	91:22 96:6,8	big 17:3 68:19	4:13,14 9:3	74:13,17 78:18
audio 3:14	98:21	biggest 93:7	18:9,11,16,18	99:5,14
authorized 3:12	backing 50:20	Bill 4:13,14 9:3	19:8 20:10	building's 52:11
41:1,2	backup 93:10	9:19,20 10:17	22:22 23:22	built 12:3 49:5
auto 62:2 63:1	95:6 98:20	13:8 18:9,11	27:5	bump 28:19
64:9 70:18	bad 88:3	18:11,16,18	boots 26:11	burning 77:22
71:10,11 75:7	balances 92:12	19:8 20:3,10	border 31:6	78:1
77:4 83:20	based 26:22	21:11,12 22:22	born 88:2	business 60:11
86:11 88:12	54:10 58:9	23:22 27:5,6,7	Boston 48:14	60:19,22 63:7
automobile	basement 38:19	38:6,8,12,12	54:12	64:13 65:7
61:11 63:6	41:14 43:19	38:18 39:9,11	bother 34:21	68:20 73:3
74:7,18 75:20	basement-hei...	39:13,16,19	35:16	74:8,16,17,19
automotive	39:1	40:7,10 41:9	bottom 8:8 24:4	75:20 77:3,11
64:12 69:6,10	basement-level	42:4,7,10	32:19 42:16	78:8,9,14,19
69:19 70:15	41:11 43:20	43:16 44:9,11	49:19 55:2	78:19 79:6,7
71:7 75:1 98:8	basic 12:10	44:18 46:21	80:13	79:17 80:3
98:8	basically 14:17	47:4,8,11	Boyer 32:14	81:15 82:3
automotive-re...	15:9 16:18	Bill's 24:19	brake 82:6	83:2 84:4
64:5 70:12	17:21 43:21	bit 14:10 22:12	breeding 77:10	86:10,10 87:3
88:6		25:2 64:17	81:16	87:4 88:17,18

92:6 95:22 96:1 businesses 61:3 68:16 80:5 85:12,13 89:5 89:11 bussy 95:22 buy 84:1 buying 88:14 Bye-bye 100:18 100:19 Byggmeister 38:13 46:3 BZA 4:3 6:3 7:5 28:6 48:5 BZA-180779 2:8 BZA-214584 2:6 BZA-264148 2:14 BZA-266007 2:12 BZA-266282 2:13 38:5 BZA-267118 2:15 58:5	capacity 79:22 car 77:13,16 81:8,8,11 Carbone 32:11 care 5:9,10 Carol 1:9 3:5 4:9,10 5:4 6:12 6:13 7:4,8,16 7:17 8:2 9:4 18:8,10 19:9 19:10 27:9 28:4 31:21 33:15 34:21 35:5 36:19,20 38:4 43:6 46:12,13 48:4 53:8 54:2,18 57:10,11 58:4 58:8 71:7,11 71:13 73:11,13 73:16,20 75:3 75:5,7,10,12 76:1 79:1 86:8 86:18 91:7,10 91:21 92:3,5 92:14,18 93:1 100:2,3 carries 78:10 cars 79:22 93:9 96:1,2,4 case 2:2 6:3 10:15 28:6 38:5 48:5,7 58:5 61:18 63:8,10 64:6,7 64:10,10 74:4 74:6 86:21 87:9,10 97:8 cases 2:4 5:5,6 16:19 77:1 87:6 catch 68:8 categories 17:4 61:9 caught 68:21 cause 45:12 CDD 18:13 20:11 23:2,5	26:9 ceiling 49:20 certainly 42:7 75:15 certificate 40:17 40:22 41:2,6 41:20,21 101:1 certify 101:5,8 cetera 17:19 Chair 1:7,7 3:9 5:8 13:8 24:14 25:21 36:2,11 45:4 46:4 48:9 56:13 57:4 98:6 challenge 11:2 change 21:5 31:2 40:10 43:7 45:12 50:12 51:7 56:8 changes 10:6 14:2 50:2 82:6 83:5 changing 49:13 50:3 Channel 3:15 Chapter 3:10 check 91:11 checked 79:10 checks 92:11 cheek 25:3 CHILD's 37:9 chitchat 5:16 choice 97:3 choose 26:10 Chris 32:6 circumstances 65:21 cite 77:3 cited 77:1 citizens 82:1 city 1:2,12 3:12 23:10,18 60:13 60:20 62:10 63:2 69:22 79:18 City's 4:3 61:6	clarify 14:1 16:4 clarity 24:21 42:4 46:22 cleaner 71:15 89:11 clear 82:2 click 8:8 24:4 32:19 42:16 55:2 80:13 close 26:21 33:7 43:3 55:11 72:12,20 82:16 85:9 94:6 closed 90:14 94:10 99:5 closely 87:3 closer 12:6,9 15:9 closing 8:17 code 20:9 39:21 39:22 40:6 41:17 colleagues 18:6 COLLECTIVE 5:21 100:16,19 color 17:19 column 9:7 combine 19:15 come 10:4,20,22 11:14 13:1 22:12 34:4 84:9 91:22 97:5 comes 10:19 83:11 comfortable 92:18 coming 28:22 73:20 commenced 41:1,3,6 commend 25:22 26:1 comment 4:1,2 8:6 17:9,16 20:1,11 22:20 22:21 23:1,5 24:2,3 25:18	33:19 40:4,13 41:9 42:14 54:20,22 76:8 80:12 84:18 commentary 32:1 54:21 comments 18:16 18:19 21:14 22:18 25:16 27:1 35:8 36:1 56:4 58:17 commercial 63:16 65:5,13 68:16 87:21 88:1 89:5 commission 13:14 17:15,15 20:12,14 40:19 41:20 101:17 Commonwealth 101:2,5 communicating 26:9 Community 10:9 company 72:17 complain 88:5 91:12 complained 94:7 95:14 complaining 97:2 complaints 87:11 88:21 93:7 compliance 34:14 40:3 compliant 30:13 comply 11:7 35:14 60:20 61:6 95:1 97:14 compressor 96:14 compressors 79:1,19 conceptually 12:18
C				
C 3:1 cable 3:15 call 3:21 21:20 59:6,14,17 82:11 called 74:18 calling 8:10,17 24:2,6 25:19 26:21 32:21 33:6 38:6 42:18 43:3 48:6,8 55:3,11 58:6 59:9 72:15 76:10 80:15 82:10,13 85:7,8 Cambridge 1:2 1:6 3:8,13,16 15:16 40:18 77:5 81:22 88:19				

<p>concern 34:18 40:4 90:15 95:5 concerned 76:12 81:14 concerns 89:15 91:9 93:22 conclusion 97:6 concur 56:3 75:9,14 condition 17:22 36:7 40:21,22 41:8 46:1 56:9 56:21 90:17 98:12 conditions 49:7 50:14 52:6 53:17 62:6 65:21 90:10,10 90:21 91:3,8 91:11,13 92:15 92:19,21 93:4 94:22 95:1,18 97:6,11,12,18 97:22 98:18 100:13 conducive 78:14 conduct 65:6 conducted 63:7 64:13 74:8,16 confirm 8:14 24:10 33:3 42:22 55:8 80:19 conform 46:1 52:13,19 conformed 11:11 conforming 25:10 conforms 36:7 56:21 98:12 confused 20:3 69:5,12 confusing 19:6 confusion 70:3 congestion 45:12</p>	<p>conjunction 64:12 connection 48:19 63:6 74:7,16 Conservation 17:15 40:19 consider 9:8 considered 71:14 consistent 16:3 33:12 64:14 78:9 construction 64:11 74:6 consult 63:21 consultant 48:18 consulting 64:3 contact 58:12 contacted 9:17 containers 79:12,13 contemplating 34:18 53:15 continue 13:2 22:11 26:22 49:17 50:13,22 64:21 68:22 69:21 70:11,20 76:20 continued 2:4 5:6 9:7 13:4 45:13 69:13 continuing 71:20 contradict 77:11 control 90:17 controlling 91:18 conundrum 72:1 conversation 88:11 conversations 6:2 convert 49:11 converted 80:9</p>	<p>convinced 56:7 convinces 34:14 copy 16:18 corner 49:19 correct 14:7,8 39:8,9 44:9 45:10 47:6,7 57:1 59:14,15 62:12 70:8 71:4 73:5 80:8 correspond 22:8 correspondence 32:2 42:13 54:21 76:8 80:11 81:3 costs 68:2,11 Council 26:10 counsel 48:11 101:9 count 31:13 couple 30:8 96:2 course 26:5 61:6 Court 3:11 cover 12:7 16:18 covered 93:15 COVID 72:19 create 23:19 79:16 80:1 created 45:16 criteria 45:8,21 51:11 Crosbie 41:22 cross-prohibit... 52:20 cultural 76:13 curious 53:8 current 28:15 72:3,4 87:3 89:10 currently 14:11 14:14 25:14 28:12 43:17 curtain 12:15 customer 83:11 customers 95:8</p> <hr/> <p style="text-align: center;">D</p> <p>D 2:1 3:1</p>	<p>Dan 24:13,14,15 25:18 Daniel 1:8 3:5 4:15,16 5:3,13 6:10,11 7:3,8 7:14,15 9:4 13:19,20 14:7 14:9 15:2,11 15:18,22 16:22 17:10,17 18:1 18:2,5 27:9 28:3 33:9 36:17,18 38:3 46:10,11 48:3 56:6 57:12,13 58:3 72:2,6,13 73:7,9 86:20 87:19 90:5,7 91:4 94:13 100:4,5 date 2:7,9 36:10 41:2,3 dated 36:9,10 40:19 46:3,4 46:22 57:3,4 76:11 David 32:7 day 26:13,13 28:19 34:11 62:17 79:13 85:3 96:2,2,2 101:13 days 84:22 85:21 deal 26:13 94:6 deals 13:14 December 6:6 decide 20:14 58:8 decided 89:8 Decision 2:7,10 decrease 53:4 defeat 52:21 defer 18:3 definitely 67:19 68:18 definition 40:2 75:10</p>	<p>deliveries 54:14 delivers 54:8 demand 49:3 52:7,9 demolition 52:17 56:19 denied 97:8 density 23:9,10 23:19,19,20 24:19 25:9 34:16 35:16,16 deny 87:9 describe 60:7 describing 11:10 description 10:9 11:12 17:3 76:22 design 23:4 24:16 38:13 46:3 55:14 despite 88:20 detriment 34:3 45:17 developer 48:12 54:10 developing 48:13 development 10:9 45:13 diagonal 87:22 87:22 diagrams 17:4 Diana 38:14 different 16:19 44:8 81:12 differentiate 75:2 difficult 73:21 86:21 dimension 31:11 dimensional 30:9 31:4 36:13 39:14 46:6 50:5 52:13 57:6 98:15 dimensionally</p>
---	---	---	---	---

<p>50:11 diminish 82:2 direction 20:2 discretion 5:8 discuss 66:4 discussed 56:17 discussion 5:12 5:19 9:17 12:19 13:14 15:14,21,21 21:2 33:7,17 35:8 43:5,10 45:1 55:12 56:5 67:18 69:15 85:9 86:19 87:18 98:3 discussions 13:2 50:1 diseases 77:7 distance 25:4 29:14 distill 17:7 distinction 81:5 distributor 84:7 district 40:19 45:19 65:5 66:2 69:20 78:9 86:6 98:9 disturbance 86:17 disturbing 35:3 dock 55:22 56:15,15 70:4 document 9:11 10:5,6 18:22 19:2 doing 9:12 10:12 10:21 17:22 29:15 61:17 68:21 74:12 75:21 77:17 83:14,15 84:12 88:18 90:12,19 door 49:22 50:2 50:5 51:3,5 53:9 56:15,18 90:13 94:6</p>	<p>95:12 96:21 99:5 doors 94:10 dormer 2:5 9:9 9:10 11:1,7,22 12:1,4,6,8,8,11 12:13 14:4,13 14:13,21 15:9 16:7,17 17:7 17:16 19:1 25:1,2 dormers 11:10 16:19 19:16 20:15 35:11,20 Downstairs 32:9 Dr 79:14 draft 9:21 10:5 21:2 27:2 drafting 26:6 92:15 Drake 32:14 drawing 29:20 29:22 drawings 36:8 46:2,22 47:1,4 56:22 98:13,13 drills 79:1,20 drive 83:22 95:7 95:7 driveway 29:13 76:14 79:21 90:18 93:9 95:5 98:20 drop 58:9 due 15:6 39:22 40:2 52:6 Dutra 78:13 79:11 dwelling 25:11 dying 81:17 88:17</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>E 2:1 3:1,1 e- 22:8 e-mail 9:16 21:12 22:5 earlier 67:14</p>	<p>92:6,9 earliest 22:17 earned 68:11 easier 23:6,19 edification 51:13 effect 41:7 54:2 efficient 21:10 EGARDING 2:5 egress 45:11 eight 10:21 32:5 either 10:2 11:1 15:13 17:14 18:21 50:2 93:13 97:5 elaborating 14:10 electric 73:17 96:21 electrical 96:14 element 15:13 elevation 34:9 elevations 49:14 elicited 19:12 eliminate 20:6 eliminated 19:13 eliminating 19:4 53:21 Embark 57:1 embedded 13:10 employed 101:9 employees 1:12 83:3 enclosed 52:12 encourage 23:15 encouraging 23:8 enforce 94:16 enforcement 51:22 65:17 91:11 92:19 England 81:19 enlarge 52:16 enter 41:8 95:7 entering 54:7 76:15,16 90:18</p>	<p>entire 65:15 entitled 36:8 46:2 56:22 entrance 78:17 entry 52:13 53:18,21 environment 82:1 environmental 78:11 equate 70:4 erect 74:5 especially 35:5 52:9 65:22 68:6 essence 9:9 12:12 essentially 60:9 establish 95:22 established 60:22 68:15,20 estate 60:5 et 17:19 Euri 59:2,8,13 61:14,17,18,20 62:4 63:11,11 63:15 64:1 65:4,9,12,14 66:7,12,15,17 66:19 67:2 68:7,18 72:7,8 72:9,9,12,21 73:4,6 78:3 82:12,15,17,17 82:18,19,19,22 83:21 84:3,6,8 87:14,14,15,15 94:19,20 95:16 95:19 96:12 97:4,10,16,19 97:21 99:7,8 99:11,16,19 100:1 Euri's 59:15 67:20 evening 12:20 22:3 24:14,17 Everybody 96:8</p>	<p>exactly 53:18 56:11 60:16 83:21 97:10 example 96:13 exceed 12:2 exceptions 26:5 excited 53:1 excuse 18:9,9 78:4 exemption 14:17 exist 9:11 16:14 existed 53:14 62:19 existing 11:17 12:1,7,9 48:20 49:7,18,22 50:8,14,19,22 52:4,11,12,18 52:22 53:16 54:4 62:22 89:1 exists 10:13 exit 93:10 95:7,8 96:10 99:1 exiting 76:15,16 90:18,19 expand 28:16 expanding 23:12 42:1 experience 48:13 54:10 expire 41:6 expires 101:17 explain 9:13 83:18 explanation 13:9 70:1 explicitly 82:8 express 97:21 extend 12:6 extending 11:22 extension 2:6,9 5:9,10,18 6:5,6 6:19 7:7,10,12 8:1,7 25:6 Extensions 8:19 extent 39:12,13</p>
---	--	--	--	---

52:21	34:2 86:9,22	28:12,13,15,17	fully 24:18 74:9	56:7 81:12
exterior 38:20	87:4,9 88:3,9	29:4 34:2	fumbling 30:6	86:21
49:12	88:17 91:5	43:17 54:13	Fumes 77:22	glad 13:21
extra 16:13	feeling 89:3	Foch 2:12 28:6	function 81:8,9	glancing 25:15
extreme 79:5	feet 29:10 31:7,7	32:7,10,12,14	further 36:12	glitch 6:1
extremely 76:14	35:15,18 49:6	32:15 36:8	41:7 46:5 57:5	go 8:2 10:8
	fell 72:19	follow 24:19	98:14,17 101:8	11:10 21:7
F	Fenway 88:5	following 25:9	future 53:4,5	43:20 63:18
face 11:22,22	Fernando 1:8	98:18		64:15 75:6
facility 61:11	figure 75:7	foot 12:9 30:21	G	76:7 82:21
77:13 95:12	file 7:9 10:10	footage 30:14	G 3:1	85:13 88:22
facing 41:11	30:2 32:1,4	31:12,13 34:10	gable 25:3	94:4 97:7
63:9	40:14 41:22	35:19 55:17	garage 49:22	goes 23:17 25:16
fact 17:3	42:5,13 54:21	footprint 54:13	52:12 61:1,2	96:8
factor 79:20	60:14 64:10	forget 10:16	62:2 63:10	going 11:19 13:2
fair 97:12,13	73:1 76:9	69:8	70:9,10,14,16	16:21,21 17:1
fall 68:7	80:11	forgot 99:7	70:17 74:15	17:2 20:4,5,15
fallen 68:21	filed 2:7,10	form 22:14 80:4	75:1,19 79:18	22:18,19 27:9
falls 11:12	files 6:4	formalize 70:20	90:11 98:8,9	28:21,22 29:6
families 35:17	final 10:6 21:1	71:3	99:15	29:15,18 35:2
family 15:15	22:14	formally 64:20	Gas 87:22	37:1 39:6
23:13	financial 52:1	format 21:10	general 1:3 20:1	43:16 54:1,14
FAR 14:16,17	65:18	former 80:8	23:3,18 93:21	59:6 63:21
14:19 15:13	financially	forms 36:13	generally 4:4	67:5 71:5 76:7
25:13 30:17	52:15 101:10	46:6 57:6	25:5 66:1	78:12 83:5,5,7
34:11,14 35:19	find 4:2 19:2	98:15	generated 45:11	83:16 85:8
fast 22:17	23:19 56:7	forth 21:12	generically	88:7 92:1
father 60:6	86:20	forward 12:15	74:18	94:16 96:10
66:14	finding 29:21	21:3,7 25:16	gentle 23:9,19	Goldberg 32:10
favor 6:9,11,13	fine 5:13 13:1	27:9 34:4 97:9	24:19 25:9	good 5:21 19:3
6:15,16,18	96:18	found 13:21	Geoffrey 40:15	19:20 20:20
7:13,15,17,19	fire 39:22 40:2	four 37:3,4 39:1	getting 94:17	21:6 23:5,8,16
7:20,22 32:2,6	77:19 79:16	39:7 44:4,13	Gina 59:11,12	24:14,17 26:16
32:7,8,11,12	first 5:5,19 6:3	77:21 84:10	59:16 60:2,2,5	29:6 33:12
32:15,16,16	13:7 35:10	92:19	60:9,18 61:5	43:9 67:5 68:2
33:9 35:6,21	66:8,9 67:22	fresheners	62:12,16 63:22	68:20 69:1
36:16,18,20,22	71:7	88:14	67:7,10,13,13	82:1 88:21
37:4 40:14,16	fit 29:4 34:2	front 23:7 30:18	67:16,16,19	Goodnight
46:9,11,13,15	93:9	40:3 41:11,11	72:16,19 76:3	100:19
46:17 56:2	five 6:18 7:22	41:18 50:19	76:5 97:11,12	Googling 93:5
57:9,11,13,15	12:20 46:19	54:1 61:22	97:17	Governor 3:11
57:17 100:3,5	57:19 78:2	62:13,22 63:9	give 4:1 29:19	grant 7:12 36:2
100:7,9,10,12	92:17 96:2	63:15,17 64:8	30:4 49:7	45:4 49:11
feasible 52:16	100:12	64:8 69:9,17	58:11 59:1	51:2 56:13
February 46:3	fixed 39:1	70:18 72:7	63:20 64:6	87:4 98:6
46:22 49:10	flat 34:9 73:2	73:2 74:13,16	89:9	granted 6:19 8:1
57:3	flip 45:8 97:6	75:22	given 29:10	15:17 37:5
feel 10:6 18:8	floor 23:13	full 13:16	39:20 54:13	40:22 46:20

<p>57:20 62:8,10 63:2,3 64:15 65:2,3 71:21 73:17 74:13 75:16,19 98:11 98:17 100:13 granting 75:18 91:2 98:10 graphic 39:7 76:18 great 4:19 13:18 67:21 88:18 Greater 48:14 54:11 Greenfield 48:16 gross 30:14 31:13 ground 26:12 77:10 81:16 grounds 95:20 group 10:2 groups 21:22 grow 81:19 growing 15:15 23:13 guess 18:18 20:7 22:22 31:6 44:6 70:21 73:3 75:7 87:8 88:9 guessing 88:15 guidance 19:5 guide 20:11 guideline 11:2 guidelines 2:5 9:9,10 11:1,7 12:11,13 13:10 14:4,21 16:7 16:12,17 17:7 18:12,20,21 19:4,17,20 20:4,6,7 gun 96:14,14 guns 96:22 guys 18:13 66:20 96:17 98:1</p>	<p style="text-align: center;">H</p> <hr/> <p>half 12:2 29:10 30:22 33:22 Hampshire 2:8 7:6 hand 8:9,11 24:5,7 32:20 32:22 42:17,19 55:3,4 59:3 80:14,16 101:12 happen 12:4 13:3 22:15,16 92:2 95:11 happened 89:8 happening 13:22 94:21 happens 19:15 21:22 60:16 happy 44:15 51:10 59:17 60:20 hard 39:15 68:10 91:14 hard- 68:10 hardship 15:16 51:17,19 52:1 52:2 56:17 62:7 64:16 65:1,18,20 66:5,14,18,22 67:20 86:15,16 98:11 Harper 38:6,8 38:12,12,18 39:9,11,13,16 39:19 40:7,10 40:17 41:9 42:4,7,10 43:16 44:9,11 44:18 46:21 47:4,8,11 Harrold 28:7,11 29:8,22 30:3 30:10,16,20 31:1,5,11,16 31:18 32:5,9 37:6</p>	<p>hate 68:9,13 haven't 12:22 Hawkinson 25:20,21,22 hazard 45:12,16 77:19,21 79:16 hazards 78:11 81:14 head 28:19 health 45:17 77:21 78:11 81:14 89:16 90:15 healthy 82:1 hear 8:14 23:1 24:10 26:9 31:10 33:3 42:22 55:8 61:5 67:8 80:19 96:15 heard 11:1 hearing 1:3 2:7 2:9 8:2 13:3,5 21:4,17 Hector 58:13,14 58:15,16,20 76:20 81:1,2,2 84:18,19 height 14:12,18 15:8 25:7,13 30:21 49:21 50:4 51:5 56:15,16,18 held 9:18 hello 38:8 58:14 58:16 61:14,15 help 10:20 71:22 90:22 helpful 21:12 50:10 hereunto 101:12 Hey 84:10 hi 28:7 38:9 59:11 61:14,17 72:9 81:2 Hidalgo 1:8 3:5 4:16 5:3,13 6:11 7:3,15 9:4</p>	<p>13:20 14:7,9 15:2,11,18,22 16:22 17:10,17 18:2,5 28:3 33:9 36:18 38:3 46:11 48:3 56:6 57:13 58:3 72:2,6,13 73:9 86:20 90:5,7 91:4 94:13 100:5 high 51:3,6 76:16 90:20 highest 15:13 49:21 highway 96:9 hip 17:2 historic 19:2 20:12,14 39:2 41:13,20 89:6 historical 17:14 86:22 historically 26:4 50:21 history 15:4 53:13 72:22 73:10 87:1,13 hit 96:9,10 hold 5:14,14 58:19,19 59:4 74:1 79:22 87:15,15 95:21 holding 41:15 43:22 holiday 68:7 Holman 32:16 Holworthy 2:6 6:4,4 homeowners 38:14 homes 25:8 86:13 honest 88:20 honestly 35:14 hope 24:16 86:10 hoping 39:1</p>	<p>horns 88:13 hours 83:8 house 15:7 29:3 29:13,14,17 35:1 62:19 78:17 79:11 houses 12:4 29:2 33:20 35:11 71:17 huge 26:8 hybrid 52:7</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>icon 8:8 24:4 32:19 42:16 55:2 80:13 idea 23:8 75:17 81:15 98:1 illustrate 49:15 image 49:18 imagine 92:7,11 97:15 immediate 89:4 impact 76:13 impacting 79:22 impair 45:19 implementation 21:21 importance 16:11 impression 39:20 improvement 19:11 53:16 inability 53:3 inclined 87:8 89:14 include 12:12 75:8 included 20:9 includes 49:7 including 41:16 income 66:13 67:3 incorporate 36:12 46:5 57:5 98:14 incorporating</p>
--	---	--	--	---

<p>98:18 increase 23:10 increased 30:21 77:6 incubator 49:4 55:18 incubator-type 52:9 individually 10:2,15 indoors 89:12 90:13 95:9 97:14 industrial 80:3 infestation 80:2 inherent 53:2 initialed 36:10 46:4 57:4 input 94:17 inside 90:11 91:15,19 93:14 93:15,18 94:4 94:9,9 95:10 95:12 96:17 99:2,4 inspect 91:22 inspections 92:11 Inspector 40:2 install 39:1 79:2 83:13,13 84:1 95:6 98:19 installation 41:15 64:5 73:5 81:11 83:20 90:13 94:5,9 95:11 installed 99:4 instructions 4:1 4:3 integrity 45:19 intent 77:5 81:22 intention 17:11 interest 9:14 21:3,4 interested 10:12 13:6 61:5</p>	<p>101:10 interior 44:1 50:14,17 51:5 interpretation 25:3 interpreting 87:6 interrupt 67:7 67:11 introduce 38:9 60:1 61:15 67:12 involve 52:1 65:18 involved 26:6,14 75:21 involves 21:8 70:17 ISD 42:6 50:1 issuance 41:2,4 issue 39:15 40:6 40:6 41:19 51:16 61:12,21 74:20 79:19 95:5 96:16 issues 26:2 39:22 91:1 95:4 item 34:18 items 12:10 15:21</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jack's 87:22 January 7:11 Jennifer 76:11 Jim 1:7 3:4,7,9 4:7,8,19 5:3,5 5:14,22 6:10 6:12,14,16,16 6:18 7:3,5,14 7:16,18,20,20 7:22 8:4 9:3,6 13:8,18 14:6,8 15:1,3,12,19 16:16 17:1,11 17:18 18:4,7,9 18:15,17 19:7</p>	<p>19:9,21 20:22 22:22 23:21 24:1 25:17 26:17,19 27:6 27:8 28:3,5 29:7,19 30:1,4 30:12,17,21 31:2,9,15,17 31:19,22 32:10 32:14 33:14,16 34:20 35:4,7 35:10,12,22 36:17,19,21 37:1,1,4,8,10 38:3,5,9 39:6 39:10,12,14,17 40:5,9,11 42:3 42:5,8,11 43:9 45:1 46:10,12 46:14,16,16,19 47:3,6,10 48:3 48:5,16 51:13 51:16,19 53:6 54:17,19 56:3 56:11 57:3,10 57:12,14,16,16 57:19,22 58:3 58:5,10,19,21 59:4,22 60:4,7 60:17 61:4,7 61:15,19,21 62:5,15,17 63:13,20 64:3 65:8,10,13,15 66:9,13,16,18 67:1,6,9,12,15 67:17 69:2,4 69:15 70:6,8 70:12,16 71:1 71:4,6,9,12,22 72:4,8,10,14 72:18,22 73:7 73:11,15,19 74:1,10 75:6,9 75:11,14 76:2 76:4,6 78:4,12 82:10,13,16,18 82:21 83:18,22</p>	<p>84:4,7,16 85:6 85:11,15,20 86:1,4,18 87:15,19 89:2 89:18,21 90:1 90:4,6,8 91:4,7 91:16 92:1,4 92:16 93:2,11 93:17,19 94:1 94:14,16,21 95:17 96:11 97:1,5,20 98:3 99:9,13,17,20 100:4,6,8,10 100:10,12,16 100:17 Johanna 48:8,9 48:10 51:15,18 51:21 53:12 54:4 57:2,21 John 25:20,21 25:21 26:19 28:7,7,11 29:8 29:22 30:3,10 30:16,20 31:1 31:5,11,16,18 32:5,9,11 37:6 join 38:15 July 22:16 27:2 jump 18:12,18 87:16 jumping 23:1 June 100:18 101:13</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kai 28:8 Kathleen 79:11 Kathy 78:13 keep 13:11 20:4 20:6 43:16 67:4 74:9 78:12 94:10 96:19 keeps 29:12 kept 3:22 kids 67:3 kind 13:13 16:8</p>	<p>16:13,15 21:9 23:11,18 24:21 25:15 28:19 29:3 33:11 34:1,14 53:9 53:14 55:14 56:9 70:2,3 87:2,5 89:3,16 knew 86:22 87:12 know 14:1 15:4 15:14,16,20 16:7,12 17:20 18:3,5,13 20:19 21:11 23:12 26:3,4,9 30:12 33:10 34:6,12,13 42:1 44:1,14 53:1 54:7,9 55:19,20 58:10 59:17 60:11,14 60:15,19,19,20 60:21 61:1,2,6 63:19 67:4,5 67:20 68:1,4,6 68:6,7,9,10,13 68:14,16,17,18 68:22 69:10,16 71:15 72:6 73:14,16 74:11 74:17 75:21,22 77:22 82:7 83:6,17 85:15 85:15 86:4,5,6 86:21 87:2,6,8 88:10,16 89:7 89:9,10,11 90:1,2,16 91:10 92:12,12 93:6,13,16 94:8 96:4,10 96:15,18,20 97:13,18 98:2 knowing 71:14 known 23:9 KS 48:11,16 57:1</p>
---	---	---	---	--

L				
lab 48:21 49:4 50:4 51:1 52:9 53:4,5 54:6	72:9,12 73:6 78:3 82:12,15 82:17,19,22 83:21 84:3,6,8 87:14 94:20 95:16,19 96:12 97:4,10,16,19 97:21 99:8,11 99:16,19 100:1	live 32:6 82:2 livelihood 66:11 67:4 lives 23:6 40:15 living 29:15 loaded 50:16 loading 49:17,18 49:20,21,21 50:2,3,5,8,9,14 50:17,19,21,22 51:5 52:11 53:4,18 54:1,5 55:22 56:15,15 56:15 70:4	19:11 26:14 29:2 35:10 39:4 63:5 65:4 65:22 67:21,22 68:1,10 70:19 70:20 83:9	mean 16:2,16 18:2 34:22 53:9 69:8 70:3 71:13,17 88:5 88:12 89:13 91:12 93:6 96:15 97:3 99:11
labs 55:16	length 12:1,2,2 19:14 25:1	local 17:14 48:12	lot's 65:15	meaning 95:1
laid 14:14,22	lengthier 76:21	located 66:2 78:8	low 53:11	meaningful 33:11
land 66:1	Lesley 49:1	location 54:13 65:4 72:11 76:19 79:9 82:4,9 93:6	lower 53:10	means 15:7 16:12
landlord 59:12	let's 14:18 58:11 95:21	long 16:20 72:2 72:4,10 88:2	lucky 96:3	meant 87:7
language 11:18 24:21 26:3	letter 29:11 40:14 59:19 60:10,12 76:11	longer 9:11 20:17 40:4	Lynne 101:4	measurement 35:18
large 12:5 52:21 54:7 79:15,15	license 60:22 61:1,3 89:9 90:2 92:7,13	look 17:8,18 21:13 22:12 29:6 55:15 67:22 68:2 93:5	mail 22:9	mechanical 77:14 82:7
larger 53:14,21 53:22 55:20	licenses 92:10	looking 22:15 25:16 28:16 29:20 33:19 38:11 66:20 91:16	main 84:14 96:16	mechanics 83:6
LaRosa 1:9 3:6 4:17,18 5:4 6:15 7:4,19 9:5 20:1 28:4 35:9 35:13 36:22 38:4 43:12 44:6,10,17,22 46:15 48:4 57:9 58:4 69:4 70:2,7,9,14,21 71:2,5 87:19 89:19,22 90:3 92:5 93:5,12 93:18,20 94:12 100:9	licensing 92:6,7	looks 19:2 30:13 55:22 69:6 83:15 91:18 93:8 94:3	making 13:9 16:2 23:14 34:17 68:2	meet 14:12,13 40:3 45:21 50:5
larvae 80:3	life 48:13 52:10 54:11 55:14 56:1	lose 66:11 67:2 68:13	malleable 11:21	meeting 1:4 3:8 3:14 9:18 21:9 22:8,16,17,19 27:2
Lastly 99:6	lift 94:4	lot 16:8 17:12	manage 60:5	meetings 3:13 4:3 9:14,15
late 49:10	likelihood 77:6		manner 70:7	meets 14:14 51:10 56:10
law 29:12	limit 53:10		manually 78:22	member 8:7 24:3 32:18 56:12 80:12
leap 88:16	limitations 25:11		March 47:2,4	members 3:4,19 3:19,22 4:5,6 5:3,17 7:3 9:3 9:7 10:7 22:7 22:20 24:15,20 28:3 30:7 31:20 33:7,17 38:3 40:12 42:15 43:5,10 45:2 48:3,10 53:7 54:19 55:1,12 56:5 58:3 69:3 76:4 76:6 81:5 85:10 87:17
leave 15:15 34:7 94:17	limited 49:15 55:16 79:4		market 49:2 52:6	
left 30:18 87:5 99:3	limiting 88:19		markups 18:14	
legal 48:11 75:10	line 26:20 38:21 39:15 94:19		Marlene 32:11	
legitimate 87:11	lines 70:3 90:9		MARTINACK 38:17	
Leguisamon 59:8 61:14,17 61:18,20 62:4 63:11,15 64:1 65:4,9,12,14 66:7,12,15,17 66:19 67:2	liquid 55:21		Martinek 38:15	
	listed 61:7		Mass 2:15 24:16 58:6 61:18 63:1,7,9,18 64:9 65:5 74:8 79:22 80:7 87:21 90:19 96:7 98:21	
	listening 66:20 92:17		Massachusetts 1:5,6 3:11 101:2,5	
	literal 51:22 65:17		materials 17:19	
	little 20:3 24:22 25:2 34:22 49:12 73:2 74:2 87:1,12 88:16		matter 9:6	
			Mavis 87:22	
			maximize 34:9	
			maxing 34:1	
			McGowan 79:14	

<p>98:4 100:1 mention 41:19 mentioned 9:13 14:2 39:19 40:3,17 43:13 46:22 52:12 81:7 90:9 92:6 100:13 merits 26:1 message 9:19 met 14:21 45:10 Michael 1:9 3:5 4:17,18,19 5:4 6:14,15 7:4,8 7:18,19 9:4 19:22 20:1 27:9 28:4 35:9 35:13 36:21,22 38:4 43:12 44:6,10,17,22 46:14,15 48:4 57:8,9 58:4 69:4 70:2,7,9 70:14,21 71:2 71:5 87:19 89:19,22 90:3 92:5 93:3,5,12 93:18,20 94:12 100:8,9 Michael's 89:4 Mid 40:18 Middlesex 101:3 mile 80:6 mind 5:9 43:7 93:3 minors 67:4 minute 43:13 59:6 minutes 4:4 8:15 24:11 33:4 43:1 55:9 59:1 80:20 mirror 93:10 95:6 mirrors 98:20 Mm-hm 30:20 92:3 modification</p>	<p>12:16 29:3 moment 10:5 30:4 58:11 63:21 66:4 70:1 74:2 87:18 92:16 money 68:11 Monteverde 1:7 3:4,7,9 4:7,8 4:19 5:3,5,14 5:22 6:10,12 6:14,16,16,18 7:3,5,14,16,18 7:20,20,22 8:4 9:3,6 13:18 14:6,8 15:1,3 15:12,19 16:16 17:1,11,18 18:4,7,15,17 19:7,9,21 20:22 23:21 24:1 25:17 26:19 27:6,8 28:3,5 29:7,19 30:1,4,12,17 30:21 31:2,9 31:15,17,19,22 32:10,14 33:14 33:16 34:20 35:4,7,12,22 36:17,19,21 37:1,1,4,8,10 38:3,5,9 39:6 39:10,12,14,17 40:5,9,11 42:3 42:5,8,11 43:9 45:1 46:10,12 46:14,16,16,19 47:3,6,10 48:3 48:5 51:13,16 51:19 53:6 54:17,19 56:3 56:11 57:3,10 57:12,14,16,16 57:19,22 58:3 58:5,10,19,21 59:4,22 60:4,7 60:17 61:4,7</p>	<p>61:15,19,21 62:5,15,17 63:13,20 64:3 65:8,10,13,15 66:9,13,16,18 67:1,6,9,12,15 67:17 69:2,15 70:6,8,12,16 71:1,4,6,9,12 71:22 72:4,8 72:10,14,18,22 73:7,11,15,19 74:1,10 75:6,9 75:11,14 76:2 76:4,6 78:4,12 82:10,13,16,18 82:21 83:18,22 84:4,7,16 85:6 85:15,20 86:1 86:4,18 87:15 89:2,18,21 90:1,4,6,8 91:7 91:16 92:1,4 92:16 93:2,11 93:17,19 94:1 94:14,16,21 95:17 96:11 97:1,5,20 98:3 99:9,13,17,20 100:4,6,8,10 100:10,12,17 Month 2:6,9 6:5 months 9:14,19 41:1,3 morphed 75:15 mosquito 80:2 mosquito-borne 77:7 mosquitos 77:10 81:16,19,20 85:2 motion 7:11 8:18 36:1,2 43:11 45:3,4 56:12,13 98:5 98:6 99:22 move 5:11 12:15 12:18 20:2</p>	<p>21:3 36:1 43:10 45:2,3 56:12 84:14 88:4 96:20 97:9 moved 28:18 41:13 44:19 67:22 moving 22:17 29:18 multiple 79:3 mute 3:22 8:11 24:7 32:22 42:19 55:4 80:16</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>N 2:1 3:1 name 3:8,20 8:13 24:9 32:12 33:2 38:12 42:21 48:10 55:7 60:2 61:1,18 72:7 80:18 81:2 narrative 17:5 narrow 76:14 79:21 Nascimento 59:11,12,16 60:2,3,5,9,18 61:5 62:12,16 63:22 67:7,10 67:13,16,16,19 72:16,19 76:3 76:5 97:11,17 Natola 1:13 4:7 4:9,11,13,15 4:17 24:13 25:20 58:13,15 58:18 59:2,10 59:15 74:4 81:1 near 11:5 71:17 nearby 76:17 necessarily 64:5 necessary 17:5</p>	<p>19:12 need 9:11 10:15 16:14 17:13 23:18 26:18 31:3,5 39:21 44:15 62:7 64:15,19 79:8 97:13 needed 9:18 22:2 41:17 81:8 needing 29:9 55:19 needs 21:8 62:8 69:18,20 79:6 neighbor 29:10 29:10,13 30:10 31:8 neighborhood 29:3,5 33:13 33:21 34:2,3 35:3 40:18 76:13 79:3,21 86:12,17 97:3 neighboring 33:20 88:20 neighbors 35:5 73:17 81:13 87:10,20 88:4 90:22 91:1,12 94:7 95:4,13 95:13 96:5 97:2 neighbors' 89:15 91:9 95:5 neither 52:15 101:8 never 11:1 44:13 68:4 new 28:21 49:13 77:15 79:16 81:19 83:1 Ng 1:7 3:4 4:11 4:12 5:3 6:9 7:3,13 9:3 13:7 27:7 28:3 34:8 36:16 38:3</p>
--	---	--	---	---

46:9 48:3 55:13 57:15 58:3 85:11,19 85:21 86:3 89:3 94:15 100:7 Ni 28:10 32:5,13 37:7 nice 4:19 night 42:6 100:14 nine 11:6 noise 73:20 79:2 79:20 88:5 90:15 93:12 94:7 95:13 97:1 Non- 41:21 Noncompliance 11:13 nonconforming 25:12 36:5 38:20 39:3,4 45:7 51:9 nonconformiti... 25:6,7 33:10 nongentle 23:20 Nope 33:6 Notary 101:4,16 note 51:4 noted 47:3 52:3 82:5 notes 14:3 notified 9:16 Nuisance 45:16 nullify 77:5 number 10:22 54:11 78:16,20 91:18 numbers 64:6	October 40:19 41:10 off-street 52:11 53:3 offer 22:10 offers 34:12 office 42:6 48:20 48:22 49:2 50:3 52:4,8 63:16 Oh 5:14 13:7 18:10,18 31:9 32:13 38:18 42:8 72:4 oil 82:6 83:5 okay 7:5,9 11:19 15:2 17:10 18:18 19:10 23:21 24:1 26:20 29:7 30:3,8 31:9,15 31:19 34:20 39:14,17 40:11 42:3,12 44:10 44:22 47:3,4 54:18 58:18 59:8,16 60:7 60:19 61:13,21 62:4 63:20 65:12,14 66:16 67:1 69:2 70:21 71:6 72:13,14 73:7 84:16 89:2 91:7 94:14 96:17 97:20 98:3 99:17 100:1 old 87:6 older 69:5 on- 54:4 on-street 50:19 once 10:4,6 17:6 91:13 oncoming 98:21 one's 8:17 18:17 43:3 96:10 one- 25:8,10	one-story 62:18 62:22 63:4 64:11 74:14 ones 26:13 30:1 96:19 ongoing 44:3 open 8:6 22:19 22:21 24:1 28:5 31:22 38:21 40:12 42:13 44:3 54:20,22 80:11 opening 52:16 52:19 53:14 operate 95:17 operates 98:2 operation 45:13 63:8 83:13 85:5 Operationally 50:12 opinion 13:5 58:11 opposite 80:7 86:1 opposition 76:12,21 78:13 79:15 81:4 82:3 86:8 93:3 order 12:15 28:11 52:18 74:8 95:3 ordinance 9:9 9:10 10:3 11:3 11:10,16 12:12 12:16 13:10 26:4,6,15 30:14,17,22 34:12 36:3 40:6 45:5,9 50:6 56:14 61:9 62:1 65:10,18 74:22 77:6 78:7 81:22 98:7 original 2:7,9 41:10 ought 25:10	outcome 101:10 outline 51:10 outside 63:18 77:8,20 80:1 83:8 84:20,20 85:2,22 93:7 93:14,21 95:10 96:12,18,19 99:3,12,14 overwhelming 71:18 owing 65:20 owner 83:15 ownership 43:19 oxygen 55:21	<hr/> P <hr/> P 3:1 p.m 1:4 3:3 5:2 7:2 9:2 28:2 38:2 48:2 58:2 100:20 package 49:6,14 50:7 page 2:2 50:7,8 66:3 painted 63:18 panel 50:12 54:15 Paquette 32:7 Park 88:5 parking 54:2 79:4 86:3 part 13:3 14:4 20:17 23:4 36:13 41:4 46:6 49:16 50:17 53:19 57:6 63:9 74:13,20 75:15 84:11,14 91:20 98:16 participation 3:12 particular 52:1 85:13 89:6 particularly	18:5 90:19 parties 101:9 Partner 24:15 Partners 48:12 48:16 57:1 parts 71:7 81:6 81:9,11 pass 97:8 passes 10:8 path 10:11,13 patrons 98:22 pattern 16:1 patterns 45:11 pause 30:5 51:11 58:22 59:5,7 64:2 paying 68:6 Penagos 58:13 58:14,16,20 76:20 81:2,2 84:19 people 10:20,22 18:22 19:1 20:13 29:15 53:10 63:18 81:17 88:4 90:18 percent 12:8 81:20 83:15 perfect 68:5 perform 77:14 performed 82:3 period 41:5 permission 63:3 81:12 permit 8:3 25:8 28:10,11 29:9 36:6 41:14 44:3,7,11,12 45:7,22 49:11 62:13,13 69:9 71:19 73:16 90:2 99:10,11 99:13,18,21 permits 62:10 64:4,15 89:20 permitted 44:3 45:14 53:22
--	--	--	---	---	--

<p>60:11 64:11 permitting 44:20 perplexed 34:6 person 72:15 Personally 10:12 persuasive 86:9 Peters 40:15 43:6 petition 2:5 9:8 26:1,11 58:20 77:12 78:10 81:4 petitioner 52:2 65:19 77:1 86:9 petitioner's 78:8 phone 8:10 24:6 32:21 42:18 55:3 80:15 phonetic 32:6,14 32:15 36:9 photo 91:16,20 94:2 photographs 49:7 photos 73:1 91:17 phrased 11:11 pickup 50:13 54:15 picture 84:21 pictures 28:14 piece 20:13 pieces 24:22 32:2 76:8 Pikipola 77:3 piled 78:17 pitch 17:1 pitched 28:15 33:22 pitching 23:6 place 18:21 84:9 95:21 placed 35:2 plan 43:14,17 Planning 49:10</p>	<p>50:17 53:1,19 53:20 56:9 plates 54:14 playroom 43:14 44:7 please 6:8 30:4 32:18 36:15 42:6,6 46:8 51:20 57:8 59:3 61:16 plus 10:21 point 16:5 18:12 24:19 46:21 49:21 79:1 polite 97:9 pollution 77:22 78:4 poor 76:14 77:3 85:5 Porter 24:16 posed 81:14 position 51:22 75:12 89:4 positive 87:9,10 91:8 possibility 44:2 possible 40:7 41:17 80:2 91:15 94:10 possibly 86:21 post 27:2 43:15 98:22 post-pandemic 52:6 potential 77:21 78:2 81:16 85:1,1 93:8 potentially 12:13 77:17 practically 52:16 practice 77:3 precedent 89:6 predictable 16:3 preexisting 14:20 51:8 52:13 premises 74:7</p>	<p>prepare 44:2 prepared 36:8 46:3 56:22 present 4:8,10 4:12,14,16,18 5:17 9:7 12:20 43:15 62:7 presentation 38:10 39:18 presenting 13:21 pressing 8:11,11 24:7,7 32:22 32:22 42:19,19 55:4,5 80:16 80:16 pretty 29:5 81:21 86:9 previous 17:3 62:10 64:4,15 69:22 77:1 83:2 previously 5:6 11:6 94:2 primary 12:8 printed 10:18 prior 43:18,19 Pristikos 36:9 probably 13:10 21:9 22:16 28:13 49:2 88:15 problem 80:1 97:19 procedure 92:14 proceeded 43:21 proceedings 3:18 100:20 101:7 process 10:10 20:18 23:14 26:7 41:16 44:21 50:18 53:19 85:13 project 48:17 49:17 53:5 projects 48:13 54:11</p>	<p>properly 89:12 properties 68:16 property 29:17 29:22 38:19,21 39:15 60:12 62:11 67:21 73:4 76:14 78:16,21 79:5 86:14 proponent 17:13 56:17 58:6 59:9 61:19 69:17,20 89:10 90:12 98:10,19 proponents 10:22 34:4 proposal 9:22 41:10 77:12,18 proposals 12:4 propose 10:1,2,3 proposed 2:5 9:8 14:13 33:21 34:1 36:7 45:18 46:1 50:9 56:21 98:12 proposing 21:5 protect 82:1 provide 19:15 53:3 67:3 80:6 82:1 provisions 65:17 public 3:20,22 4:1,2 8:6,7,18 9:18 13:3 21:8 21:17 22:7,19 22:19,21 24:1 24:3 26:21 31:22 32:18 33:7 40:13 42:14,15 43:3 54:20,22 55:1 55:11 76:8 80:12,12 82:16 85:9 101:4,16 publicly 21:16 pull 14:3</p>	<p>pulling 13:8 purpose 52:21 77:5 purposes 20:21 Pursuant 3:10 pursue 12:21 13:12 pursued 44:20 purview 20:16 push 83:9 put 5:11 10:7 11:3 19:19 28:21 31:12 36:10 63:16,17 67:21 68:1,10 78:22 79:18 84:10 89:14 90:17 91:13 93:9 99:14 putting 79:4</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualifications 89:15 quarter 80:6 question 21:7 38:20 43:12 44:1,6 66:8,9 69:4 70:22 73:8,12 75:2 86:7 90:12 99:6 questions 19:14 30:6 31:20 40:11 51:11 53:6 54:19 69:2 75:4 76:2 76:6 quickly 68:8 quiet 94:10 quite 23:13 29:14 49:4 73:14 89:14 quorum 9:17 10:14 12:21 21:8 22:6,6 92:22</p> <hr/> <p style="text-align: center;">R</p> <hr/>
--	--	--	---	---

<p>R 3:1 R&D 48:21 radios 77:16 rain 80:2 raining 84:22 rainwater 77:9 raise 8:9,10 16:6 24:5,6 32:20 32:21 42:17,18 55:3,4 59:3 80:14,15 rarely 26:6 rationale 66:4 76:12,19 read 10:9 16:7 42:12 61:10 62:17 65:8,10 76:22 77:2 78:5 reading 16:17 ready 28:22 43:10 real 29:8 really 10:20 11:12 15:3,19 16:6,13 17:5 21:1 24:20 25:22 31:16 33:10,20 34:3 34:17,21 35:2 35:19 49:3 52:7 54:3,9,14 55:21 64:14 65:11 66:21 68:10,13,19 71:13,19 73:13 73:21 75:12 81:14 85:5 86:11 91:10 realm 73:22 rear 30:18 53:21 63:4,10 74:6 78:17 reason 9:12 29:8 43:8 66:21 88:22 92:8 reasonable 23:10,14 35:15</p>	<p>reasons 45:18 recall 16:7 receive 21:14 received 27:1 recommendat... 16:8,9,15 recommended 18:20 reconstruction 52:18 56:20 record 58:9 74:11 86:22 87:5 91:20 101:6 recorded 3:14 refer 20:13 reference 18:22 20:5,8,12 refused 15:6 regarding 56:14 registered 26:17 regular 2:11 28:5,13 regularly 91:12 Regulations 69:18 regulatory 19:6 related 87:3 101:8 relating 65:21 relation 25:1 42:1 relationship 69:1 relative 98:20 release 21:16,16 released 22:6 relevant 16:13 relief 30:9,13 31:3,5,14,16 36:2 37:4 38:11 45:4 46:20 56:13 57:20 58:7 60:8 61:8 62:8 65:3 75:16 81:6,10 98:6 100:13</p>	<p>remain 18:21 52:8 remains 49:4 remember 88:2 remote 1:4 3:12 4:3 renderings 49:14 renew 61:2 62:16 renovate 41:14 renovated 28:18 renovation 29:16 38:19 43:15,17,22 44:20 52:17 56:19 renovations 28:12 43:13 rent 68:6,7 rented 73:4 repair 61:11 62:2 82:6 85:20 repairs 77:14 replace 41:11 replaced 41:18 replacement 40:20 replied 9:20 representing 38:14 request 2:6,9 6:5 7:6,10 15:6 51:10,14 58:7 requested 12:16 requesting 51:1 77:17 Requests 5:10 5:11,19 8:7 require 52:17 56:18,19 required 50:4 56:18 requirement 14:18 requirements 13:11 14:10,12</p>	<p>14:13,14 25:13 30:9 31:4 36:3 45:5,9 50:5 51:2 52:14 56:10,14 65:16 98:7 requires 51:3 65:2 92:7 reside 20:12 Residence 46:2 61:11 62:1 65:16 69:20 98:9 residential 69:13 78:9 79:2,20 88:3 residents 34:10 residents' 79:12 resolve 90:22 resolved 5:7 respect 51:4 56:6 87:21 respond 51:11 rest 33:12 resting 74:20 retail 73:6 83:11 83:20 reuse 48:20 49:16 52:3,22 55:13 56:8 review 11:15 17:14,16 21:15 21:22 22:14 reviewed 18:13 reviewing 20:8 34:18 revised 11:18 22:13 reword 12:11 rid 20:19 riddance 19:20 ridge 12:9 15:10 right 5:5,12,18 5:20,21 6:3 8:6 8:17 13:18 14:2,5,6,15,22 15:11 17:16,21 18:1,4,7 20:2</p>	<p>22:11,18 25:17 27:3,3 29:19 30:18 31:9,9 31:17,18,19 33:6 35:4,7,12 35:22 38:16 39:17 40:5 42:11 44:6 47:2 58:19 64:1 67:6 71:8 72:21 73:15 74:3,14 75:19 81:10 86:1 88:9 89:20 92:15 96:8 97:16,19 99:22 right-hand 49:19 right-side 36:4 39:10 45:6 Robert 79:14 robust 52:8 role 19:5,6 roll 3:21 9:9 rolling 96:1 Ronstock 48:16 roof 12:2,7 16:21 17:2,2 25:2 28:13,15 33:22 34:9 79:17 roofline 28:15 room 15:14 28:21 29:1 93:16 run 7:11 61:3 89:11 running 68:3,12</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>S 3:1 safely 95:6 safety 45:17 76:13 89:16,16 sake 41:16 sale 63:1 64:6,9 71:9 74:5 77:13</p>
---	--	--	---	---

<p>satisfy 89:15 90:22 saw 18:13 34:8 85:16 saying 8:13 14:17 20:5,19 24:9 33:2 42:21 55:7 60:10,10 77:4 78:13 79:8 80:18 says 8:9 17:21 24:5 32:20 42:17 55:3 61:10 62:1 66:11 73:2 75:1,20,20 77:12,15 80:14 83:14,19,20 93:13 scale 48:13 49:4 scenes 13:22 schedule 22:16 44:19 scheme 34:9 Schneider 48:9 48:10 51:15,18 51:21 53:12 54:4 57:2,21 science 48:13 52:10 54:11 55:14,15,19 56:1 scope 42:1 Scott 48:17 screen 8:9 11:20 21:1 24:4 32:19 42:12,16 47:1,7 49:19 55:2 66:4,20 80:14 94:2 scroll 50:9 season 68:7 Sebastian 38:15 38:15,17,18 second 5:15 16:5 29:20 44:12 60:1 63:21</p>	<p>64:10 65:20 77:11 87:16 section 11:13 13:13 36:4,6 45:22 50:6 51:2,8,22 61:9 98:10 Sections 36:3 45:5 56:14 98:7 see 4:19 9:21 10:18 12:4,20 14:18 16:20 21:1,2,15,18 21:22 22:13 24:2 28:13 35:2,17 48:15 49:19 50:11 63:19 66:21 68:9 85:1 86:13,15 91:2 95:20 98:21 100:17 seeing 25:16 66:8 seek 39:21 58:11 seeking 30:9 54:8 61:8 62:5 seen 15:5,6 18:17 40:7 sell 77:13 83:12 84:5,8 selling 86:11 89:5 semi-squared 35:20 send 27:1 42:6 sending 33:10 sense 16:16 18:6 19:22 23:18 26:8,14 49:8 94:11,15 sensible 94:13 sent 9:16,19 81:3 separate 17:4 41:16,19 44:12 44:20</p>	<p>separation 39:22 40:2 September 28:22 101:18 series 49:14 serious 81:16,21 serve 55:22 service 51:1 77:4 80:7,9 85:17 services 82:8 set 84:1,20 86:9 86:10 101:12 setback 15:7,8 25:7 31:17 36:4 39:10 45:6 setbacks 30:18 seven 29:9 32:1 32:4 seven-and-a-h... 31:7 shape 64:21 65:21 shaped 28:17 shaping 26:15 share 21:14 22:4 sharing 23:2 shed 16:21 93:16 97:14 sheet 66:6 shop 71:15 89:11 show 73:1 showed 43:14 showing 84:21 shown 44:8 shows 39:7 50:7 50:8 58:8 shut 96:21 side 6:2 12:6 15:6,8 25:1 30:18,18 31:17 31:18 41:12 80:7 86:2 97:6 sidebar 69:16 74:2 sign 27:5 93:10</p>	<p>95:7 98:22 signage 99:10,11 99:13,18,20 signatures 10:16 signed 67:13 significant 41:4 48:12 52:17 56:19 significantly 53:4 signs 63:17 99:12 similar 34:5,8 79:7 85:12 86:5 89:3,10 simple 9:21 43:7 simpler 23:15 simplification 19:11 simplifying 20:2 single-unit 50:16,18 53:17 sir 63:12 Sisi 28:8,10 32:5 32:13 37:7 site 78:1,14 89:6 91:14 sitting 3:4 5:3 7:3 9:3 28:3 38:3 48:3 58:3 78:20 85:2 situation 59:18 six 2:6,9 6:5 41:1,3 78:6 96:2 size 54:13 55:15 sized 55:22 slightly 41:21 69:5 slope 31:13 slow 96:9 slowly 90:19 93:10 95:8 99:1 small 12:4 31:12 31:16 88:18 Small-Scale 48:21</p>	<p>smaller 48:13 52:9 54:6,11 smaller- 49:3 smaller-size 53:22 smell 71:18 softer 16:8 soil 65:21 78:2 Somerville 2:14 48:6,21 50:20 56:22 somewhat 19:5 son 28:8 sorry 10:18 65:9 66:17,19 67:7 70:14 72:4,6 76:5 82:13 87:14 94:17 99:6 sort 14:3 19:5 20:14 23:17 44:1 sought 60:8 81:10 sounded 97:7 sounds 5:21 25:12 94:13 source 66:13 67:3 85:1 space 28:17 35:1 49:1,4 52:8,9 53:5 54:3 55:16,18 56:1 60:19 63:16,17 78:15 79:3,4 87:1 91:19 spaces 63:13 speak 4:4 8:8,15 24:3,11 32:18 33:4 42:15 43:1 48:7 51:19 55:1,9 59:3,17,20 80:13,20 82:12 82:17,17,20 speakers 8:12 24:8 33:1 42:20 55:6</p>
--	--	---	---	---

<p>80:17 speaking 3:20 24:21 32:2 40:16 81:13 special 8:3 25:8 28:10,11 29:9 36:6 45:7,22 49:11 specialize 83:1 specially 18:20 45:5 specific 62:7 specifically 36:4 64:19 69:19 70:17 81:7 speed 76:16 90:20 speeding 96:7 spirit 29:12 split 17:3 spoke 60:13 square 28:16 30:14 31:12,13 34:10 35:13,19 49:6 55:17 ss 101:3 Staff 4:5 8:12,14 23:4,5 24:8,10 33:1,3 42:20 42:22 55:6,8 58:11 63:21 64:4 69:16 71:22 74:2,3 80:17,19 91:11 91:21 94:18 stand 89:17 stand-alone 9:11 start 4:5 started 5:6 state 3:20 39:22 44:14 78:15 stated 80:3 statement 9:21 66:11 67:20 statements 36:13 46:6 57:6 98:15</p>	<p>states 40:21 stating 77:18 stations 80:9 85:17 statistics 81:18 stay 27:3 35:17 staying 30:18 step 13:17 Stephen 1:13 4:7,9,11,13,15 4:17 10:19 24:13 25:20 58:13,15,18 59:10,15 74:3 74:4 81:1 stereos 88:14 Steve 89:19 Steven 1:7 3:4 4:11,12 5:3 6:8 6:9 7:3,8,12,13 9:3 13:5,7 27:7 27:9 28:3 34:8 36:15,16 38:3 46:8,9 48:3 55:13 56:3 57:14,15 58:3 59:2 85:11,19 85:21 86:3 89:3 90:9 94:15 100:6,7 Steven's 56:4 stop 28:20 79:18 storage 97:14 store 78:15 79:15 stored 77:8,20 77:20 78:20 79:5,17 80:1 89:12 90:11 91:19 93:14,18 95:9 96:17 99:2 storefronts 87:22 stores 76:17 79:6 stories 33:22 straightforward</p>	<p>23:15 strain 79:4 street 2:6,8,12 6:4 7:6 28:6 32:7,7,10,12 32:15,15 33:20 34:22 35:10 36:8 54:3,5 81:3 85:12 88:1 stretch 87:21 strictly 25:11 strong 87:9 structure 15:13 36:5 45:7 66:1 structures 65:22 struggling 49:3 study 43:15 44:7 70:1 stuff 20:8 23:2 71:16 83:14 subject 10:5 17:14 49:8 submission 49:6 49:13 50:7 submit 10:8 21:21 26:10 submitted 10:10 36:13 40:10 46:6 47:1 57:6 58:17 84:21 98:16 substance 80:10 substantial 45:12 52:1 65:18 77:19 suggest 16:11 99:17,20 suggestion 15:1 suggestions 22:12 93:4 suitable 86:14 sum 80:10 summarize 32:3 76:9 summarized 42:12 summarizing</p>	<p>32:17 summary 78:8 supplied 91:17 91:17 supply 76:18 support 10:16 13:16 21:5 24:18 29:11 34:7 supporting 25:5 36:12 46:5 57:5 66:10 91:5 98:14 supportive 16:2 18:3 89:13 supposed 5:15 83:2 sure 16:4 21:21 55:15 90:7 92:12 surprise 59:19 surrounding 79:11 suspect 76:9 suspended 41:4 sustainability 53:2 switch 5:18 sympathetic 87:20</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>Table 30:9 take 4:5 5:9,10 5:18 20:22 21:13 22:12 61:6 84:9 taken 3:21 talk 5:16 21:10 32:18 35:15 64:17 65:1 talking 10:17 54:6 63:5 69:8 70:9 98:11 Talks 74:11 tardiness 59:21 Tauro 59:12 60:6</p>	<p>technical 6:1 technically 95:1 television 3:15 tell 38:10 62:9 98:22 tells 95:8 temporarily 84:20 tenant 54:16 55:16,18 59:13 60:10,14,21 67:21 68:5,9 68:13,20 72:3 72:5 tenants 52:10 53:4 54:12 56:1 tenor 23:3 termination 12:7 25:2 terminology 60:16 terms 17:18 25:1 39:18 55:16 59:19 66:5 territory 88:15 testimony 8:18 26:21 33:7 43:4 55:12 82:16 85:9 text 21:18,19 thank 4:8 5:22 8:19 13:7,7,18 13:20 19:9,21 21:6 22:2 25:17,21 26:19 27:3,5 29:19 33:14,16 34:20 35:22 37:5,6,7 37:7,9 40:11 43:9 44:22 45:1 46:10,12 46:14,16,20,21 47:7,8,11 48:9 53:6 54:17,18 56:3,11 57:10 57:12,14,16,21</p>
---	---	--	---	---

60:4 63:20,22 69:2 72:13 73:10 82:10 84:16,17 85:6 85:7 86:18 89:2,18 100:4 100:14,15,16 100:17 thanks 18:7 25:17 26:18 27:6,7 that's 15:22 19:16 69:15 Thats 70:1 thereof 92:19 thereon 74:5 thing 23:16 26:16 29:12 35:9 59:18 81:21 88:6 89:20 90:16 things 19:11,13 19:18 20:2 23:7,7 81:7 82:2 think 9:13 12:22 13:9,12 15:4,5 16:10,17 17:6 18:2 19:3,10 19:12,19 20:1 21:4 22:1,15 23:2,17 24:20 24:22 25:5 26:2,8,15 27:2 28:14 29:4,6 32:4 33:11 34:10,13 35:21 38:15 39:3,4 39:19 45:21 50:7 54:5,9 55:13,21 61:12 61:21 62:9 64:18 66:3,9 70:17,22 72:22 73:1 74:21 76:7 81:13,21 86:8 88:12,13 89:1 90:11,16	90:21,22 91:1 92:1,5,16 93:6 93:15,20 95:15 96:16 97:11 100:14 thinking 71:15 89:19 90:8 third 23:13 28:12,13,17 29:4 34:1 77:19 thirties 69:10,14 Thornton 48:17 thought 11:9 12:11 20:21 23:5,22 35:10 59:16 85:16 94:1 thoughts 22:4 three 4:4 8:15 17:4 24:11 31:6 33:4 35:14,18 43:1 55:9 66:14 67:4 80:5,20 95:11 96:4,8 99:4 three-and-a-h... 31:7 throw 33:17 THURSDAY 1:3 time 4:1,2 8:13 12:22 15:5 24:9 26:2 33:2 37:7 39:20 41:5,10 42:21 55:7 59:6 62:21 79:10 80:18 85:3,9 times 11:6 tinting 72:17 73:2 tire 64:5 69:11 73:5 76:17 79:5 80:6 83:12 88:1 90:12 94:5,9	tires 71:14,16,17 75:8,21 77:4,8 77:13,16,20,22 78:1,16,16,20 78:22 79:11,16 79:17 80:1 81:9,9,15 83:1 83:4,6,7,8,13 83:20,22 84:1 84:10,11,14,15 84:20 85:4 88:13,15 89:5 89:12 90:10 91:18 95:9,11 96:13,17,18 97:14 99:2,3,4 titles 76:22 today's 36:10 Todd 48:16 told 22:5 41:17 tonight 5:6 9:12 9:21 12:19 21:2 48:15,19 61:22 tool 20:20 tools 73:17 top 12:8 92:8 topography 65:22 tore 83:3 TP&T 53:20 traffic 45:11 48:18 82:2 90:17 93:8 98:21 transcript 3:17 101:6 transferring 19:4 55:20 transformation 55:14 transition 52:7 transmission 77:7 trash 79:12,13 treat 20:15 tremendous 19:10	tried 17:6 troubles 33:19 trucks 50:13,16 50:18 53:14,17 53:21,22 54:1 54:7,15 55:20 true 101:6 try 20:6 27:2 67:5 76:9 trying 19:1 38:15 58:12 94:6 95:22 97:2,9 tucked 34:22 tuned 27:3 turn 74:3 87:16 turtle 96:9 tweak 21:15 22:12 26:22 twenties 69:14 twice 85:16 two 5:9,10 8:7 10:1 14:11 19:15 28:18 33:22,22 41:11 41:12,18 62:9 64:4 69:5 81:20 93:7,9 95:9 96:4 99:2 two-family 25:8 25:11 type 49:4 54:16 55:15,18 56:1 97:13 types 16:19 56:1 81:20 typical 54:15 <hr/> U <hr/> ultimately 26:10 unanimously 49:10 uncertainty 44:18 unclear 62:13 undated 32:5 36:9 understand 10:1	14:2 50:1 64:16 68:17 69:12 71:20 85:6 96:4,11 understanding 14:11 59:13 60:18 understood 16:4 84:16 underway 43:18 unfinished 43:19 unfortunately 62:14 unique 56:9 unit 43:20 University 49:1 unmute 8:11,12 24:7,8 32:22 33:1 42:19,20 55:4,6 80:16 80:17 unprotected 84:21 upfront 68:2,11 Urban 23:4 use 3:12 18:22 20:14 45:18 48:21 49:11 50:3,18,22 51:1,7 56:8 61:9 62:2 63:13,15 64:14 64:19,20,21 69:13,18,19 70:13,18,20 73:4 74:12 75:18 86:14 87:1,13 89:1 93:7,21 95:20 96:21 98:9 useful 16:13 19:1,2 users 54:6 uses 45:14,19 usually 15:7,14 utilize 28:17
---	--	---	---	--

V	vote 6:8,17 7:21 8:18 10:7 21:20 22:14 36:15 37:2,3 46:8,18 57:8 57:18 64:20 91:8 94:22 97:7 100:2,11	71:13 74:1 83:16,16 91:1 91:2 ways 10:1 23:19 we'll 21:22 22:11,13 28:5 40:21 74:2 100:1 we're 5:15 8:19 9:12 13:2 19:3 19:4 20:4,5,5 20:18 21:19 28:16,21 29:8 29:15 39:1,3,6 51:7 53:15 54:5,7 58:12 60:20 63:5 64:18 70:9 71:20 74:20 77:16 81:13 87:5 88:7 97:2 we've 8:18 11:17 12:14 15:6 21:11 27:1 40:1 43:21 44:1,13 50:18 webpage 4:3 website 82:5 weird 35:1 welcome 3:7 20:13 37:8,10 47:10 57:22 welfare 45:17 well-suited 76:15 went 72:20 85:16 weren't 75:21 westernmost 31:6 whatsoever 50:12 whereof 101:12 whichever 12:3 wholesale 73:5,6 83:7,20,22 84:5,8 96:19 wholesaling	83:10 width 56:18 wife 28:8 William 1:8 3:4 wind 19:13 92:15 window 41:15 71:15 72:17 windows 12:7 39:2,7 40:20 41:11,12,18 42:1 43:22,22 44:13 wise 89:22 wish 42:15 55:1 87:12 wishes 8:8 24:2 24:3 32:18 48:6 80:12 wishing 82:11 withdraw 16:11 withdrawn 95:2 witness 101:12 wondering 25:9 85:11 Woodfin 76:11 word 21:1 work 22:11 26:22 36:7 41:1,2,4,5 44:2 46:1 49:15 52:7 56:21 67:21 68:5,10 91:6,13,15 98:12 worked 9:20 40:1 working 12:14 21:11 95:20 worth 23:2 worthless 20:19 wouldn't 82:8 wrap 8:16 24:12 33:5 43:2 55:10 80:21 writing 79:14 written 16:18 25:14	X
	W		Y	
vacant 49:1 52:4 72:20 vague 24:22 25:2 VAI 48:17 value 20:20 Valvoline 88:1 vans 50:12 54:15 variance 2:9 6:6 7:7,10,11 8:5,5 39:21 41:17 44:14 50:4 51:2,10,14 56:2,7,10,16 58:7 62:5,6 64:16 65:2,17 66:5 69:18,20 77:4 87:6 94:22 95:2 98:10,12,17 vary 11:15 vehicle 84:11,13 84:14 91:19 94:4,9 96:21 vehicles 76:15 76:16 79:4 verbiage 11:9 17:12 verify 4:6 version 22:13 vetted 53:20 viability 53:5 vibrant 49:4 Vice 1:7 video 3:14 view 16:6 views 49:13 violate 25:13 78:6 violations 14:19 viruses 81:18 visibility 76:15 visit 99:9 voice 6:8 36:15 37:9 46:8 57:8 100:2	walk 71:18 wall 12:1,8 25:3 25:3 38:20 Walter 59:12 60:5 want 12:21 15:15 18:11,22 19:19 25:22 26:1 31:12 32:17 34:4 59:20 62:12 67:11 68:4,22 70:10 82:19 83:4 84:9,9 89:13 91:4 95:19 96:9,10 wanted 11:15 16:3 20:14 81:4 97:21 98:1 wants 10:14 83:12 warning 53:9,11 53:12 warrant 78:20 wasn't 69:13 83:2 water 78:4 81:15 90:15 way 9:12 13:11 23:6,10 25:13 26:17 33:11 35:2 61:6		x 2:1 49:20,22 Xavier 32:15 yard 14:12,18 15:7,8 25:13 yeah 13:20,20 14:1,8 15:18 16:22 17:17,21 28:8,14 30:10 31:1,10,15,18 39:3 40:9 42:10 47:7 59:18 60:9 62:15 63:20 67:2,9,15 69:4 69:15 70:2,14 72:6,18 73:7 73:10 74:1,17 74:18 75:11 82:19 84:6 85:19,19 86:3 86:3,20 87:19 90:3,5,8 91:4 94:13,15,20 97:4 98:2 99:13 100:12 year 41:5 61:2 72:12,14,21 73:3 96:3 years 10:21 28:18 49:2 52:5 69:7 70:10 84:13 88:7 89:7 yep 19:7,8 38:12 39:6 47:6 48:8 56:11 57:3 58:14 59:11 60:2,4,7,17 61:4,19 63:13 65:8 67:19 71:1,12 72:10 72:16,22 73:19 76:1 82:21 85:6 93:1,11 93:17,19 94:12	

<p>yesterday 76:12 76:21 Yousef-Marti... 38:14 46:2</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>Z997 64:10 zone 50:19 61:11 62:1 65:5,13,15 68:15 zoned 86:6 zoning 1:1 2:5 3:8,13 9:8 10:4 11:3,15 20:18 26:2,5,15 40:6 45:14 62:1 65:5 66:2 68:17 77:5 78:6 86:5,5 89:22 Zoom 8:9 24:4 32:19 42:16 48:15 55:2 59:2 80:13</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>02139 1:6 04/27/23 2:7 05/25/23 2:9 07/14/23 2:10</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1' 15:9 10 11:7 26:17 98:9 10' 49:20,22,22 10- 81:19 10.30 56:16 98:10 10.40 36:6 45:7 10.43 45:22 100 69:6 70:10 83:15 88:6 89:7 11 22:16 27:2 12 47:2,4 14 7:11 78:13 14' 49:21 51:3,5</p>	<p>53:10 14th 101:13 15' 12:2,5 14:7 16:20 19:14 17 32:10 18 81:3 180779 7:5,9 19 46:3,22 1920 88:12 1928 62:18,20 64:6,22 71:9 74:4 75:16 81:7,12 1938 63:3 64:10 74:6,13,19 75:18 1972 24:16 1973 49:5</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 3:10 40:19 20 10:16 2023 3:10 40:19 2024 1:3 3:7 6:7 46:4 57:3 101:13 2025 7:11 2029 101:18 21 32:12 214584 6:3 22 3:15 6:7 76:12,21 23 1:3 3:7 84:12 24 50:8 25 50:7 2530 61:18 63:1 63:4,7 64:8,13 74:8 2530-R 2:15 58:5 63:5 26 2:12 28:6 36:8 264148 48:5 266007 28:6 27 32:7 57:3 27,000 49:6 28 2:12 32:14,15 101:18</p>	<p style="text-align: center;">3</p> <hr/> <p>3.6 12:7 30 81:19 30' 49:20 321 64:7 74:4 38 2:13</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4.37.8 69:18 4.37.h 61:9 74:22 98:7 41 2:8 7:6 411 38:21 40:16 413 2:13 38:5 48 2:14</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 2:6 5.31 36:3 45:5 50 12:7 56 10:16 58 2:15</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 8:11 24:7 32:22 42:19 55:5 80:16 6.90 56:14 6.91 50:6 51:3 51:22 6/22/23 2:7 6:00 1:4 3:3 6:02 5:2 6:06 7:2 6:08 9:2 6:31 27:8 6:32 28:2 6:43 38:2 617 59:10</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 2:8 7:00 48:2 7:15 58:2 7:25 59:8</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 79:14 8.22.1.h 14:3</p>	<p>8.22.1.h.2 11:13 11:18 8.22.2.c 36:5 45:6 8.22.e.1 51:8 8:16 100:20 815 2:14 48:5,20 56:22 831 1:5 88 2:6 6:4</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 2:5 8:11 24:7 32:22 42:19 55:4 80:16 997 74:6</p>
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