

VILLAGE OF GREENPORT

COUNTY OF SUFFOLK : STATE OF NEW YORK

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ZONING BOARD OF APPEALS

REGULAR SESSION

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Station One Firehouse

3rd & South Streets

Greenport, NY, 11944

December 21, 2021

6:00 p.m.

B E F O R E:

JOHN SALADINO - CHAIRMAN

DINNI GORDON - MEMBER

SETH KAUFMAN - MEMBER

JACK REARDON- MEMBER

ALSO IN ATTENDANCE:

PAUL PALLAS - VILLAGE ADMINISTRATOR

ROBERT CONNELLY - ZONING BOARD ATTORNEY

AMANDA AURICHIO - SECRETARY TO THE BOARD

ABSENT:

CONNIE SOLOMON - MEMBER

1 (The meeting was called to order
2 at 6:01 p.m.)

3 CHAIRMAN SALADINO: Good evening,
4 folks. This is the Village of
5 Greenport Zoning Board of Appeals
6 regular meeting. Tonight we'll be
7 minus one member.

8 Item number 1 is a motion to
9 accept the minutes of the November 16,
10 2021 Zoning Board of Appeals meeting.
11 So moved.

12 MS. GORDON: Second.

13 CHAIRMAN SALADINO: All in favor?

14 MR. REARDON: Aye.

15 MR. KAUFMAN: Aye.

16 MS. GORDON: Aye.

17 CHAIRMAN SALADINO: And I'll vote
18 aye.

19 Item number 2 is a motion to
20 approve the minutes of the September
21 21, 2021 Zoning Board of Appeals
22 meeting. So moved.

23 MS. GORDON: Second.

24 CHAIRMAN SALADINO: All in favor?

25 MR. REARDON: Aye.

1 MR. KAUFMAN: Aye.

2 MS. GORDON: Aye.

3 CHAIRMAN SALADINO: And I'll vote
4 aye.

5 Item number 3 is a motion to
6 schedule the next Zoning Board of
7 Appeals meeting for January 18, 2022 at
8 6:00 p.m. at Station One Firehouse,
9 Third and South Street, Greenport, New
10 York 11944. So moved.

11 MR. KAUFMAN: Second.

12 CHAIRMAN SALADINO: All in favor?

13 MR. REARDON: Aye.

14 MS. GORDON: Aye.

15 MR. KAUFMAN: Aye.

16 CHAIRMAN SALADINO: And I'll vote
17 aye.

18 Item number 4 is 148 Bay Avenue.
19 This is the public hearing regarding
20 the area variances applied for by
21 Bridget and Eric Elkin. The applicants
22 propose to make substantial renovations
23 and extensions to an existing single
24 family residence per the attached
25 letter. This property is located in

1 the R-2 One and Two Family District and
2 is located in the Historic District.
3 This property requires area variances.
4 The area variances -- for those that
5 have the agenda, the area variances are
6 listed on the agenda. The Suffolk
7 County Tax Map is 1001-5-2-15. We're
8 just going to ask -- we have the
9 mailings here, if anyone would like
10 I'll read them in. The stenographer
11 has a copy of the mailings, she'll
12 enter them into the record. I'm going
13 to ask the Building Department clerk,
14 this was noticed?

15 THE CLERK: Yes.

16 MAILINGS: Rode, Jane, 221 W 20th Street,
17 #2E, New York, NY 10011. Solomon, Lorene,
18 135 Bay Avenue, Greenport, NY 11944.
19 Chalkin, Dennis, 161 Central Avenue,
20 Greenport, NY 11944. Chi, Judy, 82 Bond
21 Street, Brooklyn, NY 11217. Wilday, James,
22 219 Sunset Avenue, Ridgewood, NJ 07450.
23 Israel, Isaac, 889 Harrison Avenue, Fl.2,
24 Riverhead, NY 11901. Sarkis Jr., George, 54
25 Hangdog Lane, Somers, CT 06071. Walton,

1 Frances, 171 Central Avenue, Greenport, NY
2 11944.

3 CHAIRMAN SALADINO: Is the
4 applicant here?

5 MR. ELKIN: Yes.

6 CHAIRMAN SALADINO: Would you like
7 to tell us about your application?

8 MR. ELKIN: Sure. Good evening,
9 everybody. I'm Eric Elkin for those
10 who don't know me. So the application,
11 it's a home that my wife and I moved
12 into with our kids about 15 months ago,
13 and it's a limited lot as you guys saw
14 today when you came, and really the
15 point of emphasis when we consider how
16 to reconfigure it for the needs of our
17 family was to preserve the
18 architectural integrity and limit the
19 imposition on neighboring properties.
20 Obviously we're living in tight
21 quarters there and the exterior walls
22 would move, but the effected properties
23 really would experience no negative
24 impacts on their quality of life and
25 the enjoyment of their properties. So

1 that's really the point of emphasis.
2 We're limiting the amount of square
3 footage that we're adding, the lot
4 coverage that we're adding in total
5 it's 62 feet of additional square
6 footage on the lot. And the third
7 story, this was a question that came up
8 today and previously, the third story
9 it currently has the sufficient ceiling
10 height to be -- to meet Building
11 Department requirements, so this isn't
12 a situation where we'd be actually
13 changing that roof line in any way.
14 I'd happily take any questions or
15 concerns that the Board has.

16 CHAIRMAN SALADINO: I don't. I
17 trust the Building Department to decide
18 the height of the roof as opposed to
19 the square footage that it covers. So
20 the only question I would have for you
21 is we understand -- I understand about
22 the building and how it's situated on
23 the lot, but one of the variances
24 requested -- one of the variances that
25 you're going to need is for off street

1 parking. Have you thought about how
2 you would address that?

3 MR. ELKIN: Yeah, we had talked
4 about it a bit, and it was a concern of
5 ours actually when we moved in because
6 that street gets quite a bit of parking
7 in the summer, and we had actually
8 talked about whether or not there would
9 be an opportunity to cut that curb on
10 the west side of the home and actually
11 put a spot in there. We're at really
12 fine margins, so if that was a point of
13 concern for the Board that's something
14 that we're open to doing, but we
15 understand it's a tight space, very
16 similar to the neighboring lot to the
17 east.

18 MS. GORDON: Excuse me. So is
19 there room on the west side if there
20 were a curb cut there, is there room to
21 go so you don't block the sidewalk?

22 MR. COFFEY: Hi, I'm Isaac Coffey
23 with Isaac-Rae Architects. There is
24 nine feet of space, which is tight for
25 a standard car. A compact car parking

1 space could fit there. It would
2 require obviously, you know, a little
3 bit of removal or trimming of some of
4 the hedges that are currently there,
5 but we have right at basically nine
6 feet of space between the edge of the
7 porch and the property line. So you
8 know, for a smaller car there would be
9 enough space.

10 CHAIRMAN SALADINO: Do you have a
11 smaller car? I'm only kidding. The
12 problem is that you're required to have
13 two parking spaces.

14 MR. COFFEY: Right. There would
15 be essentially a very, very minimal way
16 to do two parking spaces there.

17 CHAIRMAN SALADINO: Well, actually
18 your application -- your application --
19 and one of the questions that we would
20 ask you, the balancing test, is there
21 an alternative for you to pursue other
22 than an area variance, and there is.
23 So I'm thinking -- I might ask for my
24 colleagues -- have you considered that?
25 Have you considered an alternative

1 to --

2 MR. COFFEY: Specifically for the
3 parking variance, is that the question?
4 Yes, we talked about it, yes. We do
5 think we can put a parking space, a
6 single parking space there if I
7 understand the question correctly.

8 CHAIRMAN SALADINO: My opinion is
9 that that wouldn't work, but there is
10 an alternative, there's another
11 alternative. The Village makes
12 provision for actually payment in lieu
13 of parking. Have you considered going
14 to the Planning Board and asking?

15 MR. ELKIN: I wasn't familiar with
16 that provision for residential
17 properties. I do know that for
18 commercial properties if you don't meet
19 certain parking requirements they've
20 done so, and so if you're telling me
21 that that's an opportunity for
22 residents as well --

23 CHAIRMAN SALADINO: Well, if
24 you're required to have parking, the
25 Planning Board -- we can't grant you

1 that, that's the Planning Board's
2 mandate -- function, but with the
3 situation that we're all familiar with
4 in the Village, you know, parking is an
5 issue, and there is relief other than
6 an area variance. If you want the
7 Zoning Board to decide the parking
8 issue, it will be yes or no.

9 MR. ELKIN: Right.

10 CHAIRMAN SALADINO: If you go to
11 the Planning Board what you actually do
12 is take it off our plate.

13 MR. ELKIN: Yeah, I mean, I would
14 ask you to consider the realities of,
15 you know, that home has been there for
16 a long time, there's really no
17 opportunity to meet current code and
18 the two spot allowance without, to your
19 point, coming up with some alternative
20 payment, I guess. There's nothing
21 that's actually going to change the
22 parking situation in any tangible way.
23 And I'm open to that, I really am. I
24 would prefer not to have to go to
25 another board to broach that subject.

1 CHAIRMAN SALADINO: Usually we
2 hear we don't want to pay the money,
3 it's not that we don't want to go to
4 another board.

5 MR. ELKIN: Well, I'll candidly
6 tell you I have no idea what the money
7 involved is, but given the state of
8 cost of renovations, I'm sure in the
9 grand scheme of things it's probably
10 manageable, but it's something --

11 CHAIRMAN SALADINO: Well, let me
12 ask the Village Administrator, is that
13 an option for this?

14 MR. PALLAS: I don't -- I'm trying
15 to find it in the Code now,
16 Mr. Chairman, but I don't think that
17 applies in the Residential Districts,
18 the payment in lieu.

19 CHAIRMAN SALADINO: Where would it
20 -- why would it not?

21 MR. PALLAS: Again, I have to find
22 the reference in the Code, I just don't
23 ever recall it coming up in the
24 Residential District. Just bear with
25 me one moment, I'll try to locate it.

1 MR. ELKIN: I was familiar with --
2 I just know some of the bigger
3 developments that have gone up in town
4 recently that was a point of
5 contention, and I know they negotiated
6 something. I don't have any details or
7 certainly reference points to point to
8 directly.

9 CHAIRMAN SALADINO: Okay. We're
10 going to put a pin in that for a minute
11 because Paul lost his place in the book
12 there, but do any of my colleagues have
13 a question?

14 MS. GORDON: I have another
15 question which perhaps is really for
16 the Housing Department. It seems to me
17 that a couple of these requests for
18 variances are based on preexisting
19 nonconforming situations which have not
20 changed, and I'm wondering why -- this
21 is really for the Building Department,
22 I guess. Why do we have to deal, for
23 instance, with a front yard setback?
24 The front yard is not changing and it
25 was -- it is clearly nonconforming.

1 Everybody on the block is
2 nonconforming.

3 ATTORNEY CONNELLY: I agree. It's
4 a preexisting nonconforming property.

5 MS. GORDON: Right. So why do we
6 have to have this front yard setback
7 variance? And then there are the east
8 yard setback of 1.5 feet, it's very
9 close, it's 1.5 feet, but it's been 1.5
10 feet for many decades, why do we have
11 to have this?

12 ATTORNEY CONNELLY: I mean, for
13 the alteration to the property I would
14 agree that the variances are needed,
15 but for what is currently there it's a
16 preexisting nonconforming.

17 MS. GORDON: So you don't think we
18 need to be ruling on those matters that
19 are preexisting nonconforming and are
20 not going to change.

21 ATTORNEY CONNELLY: I don't, no.

22 MS. GORDON: Good. Less work for
23 us. Okay, John?

24 CHAIRMAN SALADINO: Do we want to
25 hear from the Building Department the

1 reason?

2 MR. PALLAS: The policy is that
3 whenever there's any variance required
4 on a preexisting nonconforming that we
5 try to bring in all nonconformity. I
6 think the Code specifies that you're
7 supposed to try to achieve that goal.
8 So that's part of the rationale for
9 doing that.

10 MS. GORDON: Well --

11 MR. PALLAS: If there were no
12 variances required at all it wouldn't
13 be coming before the Board.

14 MS. GORDON: No, no, clearly
15 there's a request for a variance on the
16 west yard setback, which is perfectly
17 sensible because they're going to be
18 extending a piece on the west side, so
19 I understand that. It's the rest of it
20 which just seems to be unnecessary, and
21 I feel silly voting on something that
22 feels unnecessary.

23 CHAIRMAN SALADINO: I always
24 thought -- if I could, I always thought
25 that by doing this, since the Building

1 Department had adopted this policy, by
2 doing it we were just legitimizing
3 these nonconformities.

4 MS. GORDON: Does that make them
5 any less nonconforming?

6 CHAIRMAN SALADINO: No, not in the
7 least, but it makes them legal.

8 ATTORNEY CONNELLY: Well, the fact
9 that they're preexisting nonconforming
10 makes them legal too.

11 MS. GORDON: They're already
12 legal.

13 CHAIRMAN SALADINO: Well, their
14 opinion is that -- we're going to have
15 to decide on policy here, guys. You
16 know, we're in the middle. So we have
17 to decide what policy we're going to
18 follow.

19 MR. REARDON: I'm in a little bit
20 of agreement here. This particular
21 renovation touches three sides of the
22 house, albeit a very minimum size on
23 the east side, so the east side should
24 be one of those things that's taken
25 into consideration, but the front,

1 they're not touching the front of the
2 house, and it is as it is, and I
3 personally don't think we should be
4 doing more administrative stuff we
5 don't have to. Give the customer an
6 opportunity to make it as expeditious
7 as possible and rule on the things that
8 it really needs.

9 CHAIRMAN SALADINO: We deal what
10 the Building Department puts in front
11 of us. If --

12 MS. GORDON: We also get opinions
13 from --

14 CHAIRMAN SALADINO: Oh,
15 absolutely.

16 MS. GORDON: -- from our lawyer.

17 CHAIRMAN SALADINO: Yeah, but we
18 don't make policy. We have a notice of
19 disapproval. I don't know if we have
20 the power to usurp the code enforcement
21 officers.

22 MS. GORDON: Well, it seems to me
23 we are -- the increases, the 62 feet
24 that are added to the footprint effect
25 the maximum lot coverage and effect the

1 dimensions of the building on the west,
2 therefore the west yard setback. Those
3 we certainly have to vote on, and I
4 guess, the calculated combined side
5 yard setback. And then the question of
6 course arises with respect to the two
7 and a half stories. On the one hand
8 we're being asked to consider a
9 variance for making the third story,
10 which currently exists, into livable
11 space, but it doesn't change the land
12 use. I mean, I don't know. Would
13 there have been a determination that
14 the extra half story was nonconforming?

15 CHAIRMAN SALADINO: The Building
16 Department decided that this would
17 become a third story.

18 ATTORNEY CONNELLY: So I think
19 that variance is required because it
20 wasn't used as livable space, so it's
21 becoming a third story. It wouldn't be
22 considered an additional story if it
23 wasn't livable space.

24 MS. GORDON: Okay. Well, yeah.

25 CHAIRMAN SALADINO: Anybody else?

1 Thank you.

2 MR. ELKIN: Thank you very much.
3 Appreciate it.

4 CHAIRMAN SALADINO: Is there
5 anyone else from the public that would
6 like to comment on this application?
7 You guys in the back? Anybody in the
8 back? No. Okay. I'm going to make a
9 motion to close this public hearing.

10 MR. KAUFMAN: Second.

11 CHAIRMAN SALADINO: All in favor?

12 MR. REARDON: Aye.

13 MS. GORDON: Aye.

14 MR. KAUFMAN: Aye.

15 CHAIRMAN SALADINO: And I'll vote
16 aye.

17 Item number 5 is a discussion and
18 possible motion on area variances
19 applied for by Bridget and Eric Elkin
20 for the property located at 148 Bay
21 Avenue, Greenport, New York 11944. The
22 Suffolk County Tax Map number remains
23 the same at 1001-5-2-15.

24 What are we thinking about this,
25 folks? Do we want to take these one at

1 a time and discount them and not vote
2 on them, or do we want to take them in
3 mass and vote on the application?

4 What's your --

5 MR. KAUFMAN: I would do one at a
6 time. I think we should just go
7 through them.

8 CHAIRMAN SALADINO: Dinni, Jack?

9 MS. GORDON: Yeah. I think one at
10 a time is good for precision and
11 specificity, but I would like -- should
12 I make a motion to exclude votes on the
13 front yard setback and the east side
14 yard setback?

15 CHAIRMAN SALADINO: Well, would we
16 be making, like, a policy statement
17 that we don't feel that these
18 variances, or would we just approve or
19 deny them as they come, or would we
20 just -- I'm not sure -- I'm not sure --

21 MS. GORDON: It's not policy about
22 the land use issues, it's policy just
23 about our process, and I guess I think
24 our policy should be that we don't --
25 that we don't revisit determinations

1 that have been made about nonconforming
2 uses.

3 CHAIRMAN SALADINO: I'm not
4 disagreeing with you, I'm just trying
5 to figure out a way to move on.

6 MS. GORDON: Well, if I make a
7 motion to that effect and it's rejected
8 or accepted then we move on on the
9 basis of that.

10 CHAIRMAN SALADINO: Well, do you
11 want to make a motion to vote on the
12 ones you think need a variance or the
13 ones that you don't? And we can, you
14 know, it's kind of like how we word it.
15 Do you want to make a motion that we
16 will be voting on parking, on third
17 story, and what was the other one?

18 MS. GORDON: And on the west yard
19 setback.

20 CHAIRMAN SALADINO: And the other
21 ones you're thinking about making a
22 motion that they're unnecessary?

23 MS. GORDON: And maximum lot
24 coverage because it is covered -- I
25 believe increased by 62 feet.

1 CHAIRMAN SALADINO: Okay. Now
2 I'm -- how about you make the motion on
3 what you think should be excluded from
4 the Zoning Board?

5 MS. GORDON: I move that we
6 exclude from our vote on these
7 variances the request for a variance of
8 15.3 feet for the front yard setback,
9 that's number one. And number two, for
10 the east yard setback of 1.5 feet.

11 CHAIRMAN SALADINO: Which one is
12 that?

13 MR. REARDON: The last one on the
14 first page.

15 CHAIRMAN SALADINO: Okay.

16 MS. GORDON: I'm not sure. And
17 then there's one about the combined
18 yard setback, but I guess that refers
19 to both side yards, so I wouldn't
20 include that. So it's just those two.

21 CHAIRMAN SALADINO: So your motion
22 is for the Zoning Board not to consider
23 those two?

24 MS. GORDON: Not to consider front
25 yard setback and west -- east side yard

1 setback, which are fixed in the
2 previous designation of nonconforming.

3 MR. PALLAS: Mr. Chairman, if I
4 may just for clarification on the
5 notice of disapproval those would be
6 items 2 and 4.

7 CHAIRMAN SALADINO: Okay.

8 MS. GORDON: Thank you.

9 CHAIRMAN SALADINO: So the motion
10 is for the Zoning Board not to consider
11 those two items on the notice of
12 disapproval. Do the members understand
13 the motion? So moved.

14 MR. REARDON: Discussion?

15 CHAIRMAN SALADINO: Okay.

16 MR. REARDON: All right. So if we
17 remove these from the applicant's or
18 from our ability to vote on them, that
19 is the same as accepting them,
20 approving them?

21 CHAIRMAN SALADINO: I think the
22 contention -- Dinni's contention is
23 that these two requests for relief
24 shouldn't be on the notice of
25 disapproval, and they shouldn't be

1 considered by the Zoning Board.

2 MR. REARDON: Dee, can I ask why
3 number 4 is included?

4 CHAIRMAN SALADINO: As not to be
5 considered?

6 MR. REARDON: Right.

7 MS. GORDON: Well, it's the for
8 the west yard setback.

9 MR. REARDON: No, this is the east
10 yard.

11 MS. GORDON: I'm sorry, for the
12 east yard setback, which remember is
13 that little tiny -- we've just been to
14 the site visit and we saw how close on
15 the east side the building comes to the
16 lot line, and that's not going to
17 change as a result of whether they do
18 this work or not, it's not going to
19 change.

20 MR. REARDON: But they are doing
21 work on that side of the building.

22 MS. GORDON: On the east side?

23 MR. REARDON: Yes, they're
24 squaring off that little Bilco door
25 area.

1 MR. COFFEY: That's correct. When
2 the rear is extended, the Bilco door
3 area on that side -- now, the
4 conformity or nonconformity stays the
5 same, so it's the same distance but
6 there is an addition to the back corner
7 of the building.

8 MR. REARDON: Same on both sides.
9 You're not changing the setback on the
10 west side either.

11 MR. COFFEY: Correct.

12 MR. REARDON: You're not going out
13 any further than you are --

14 MR. COFFEY: The nonconformity
15 remains, but there is work being done
16 in those areas. The front is no worse.

17 MR. REARDON: Thank you. So it's
18 the front of the house that is
19 untouched. The other three sides are
20 going to be impacted by the renovation.

21 MS. GORDON: Okay.

22 MR. REARDON: Albeit the east side
23 a very minimal amount, but it's still
24 going to be part of it.

25 CHAIRMAN SALADINO: Well, there is

1 construction in the front of the house
2 also. Aren't you enclosing the front
3 porch?

4 MR. COFFEY: No, no.

5 CHAIRMAN SALADINO: That's
6 interior work?

7 MR. COFFEY: The entire front of
8 the house remains untouched. So if you
9 look at the survey the entire front of
10 the house, the only thing that changes
11 on the house is from that existing bay
12 window, from that line where the holly
13 tree is back is what's being effected,
14 but the entire front facade and around
15 to the west side, all of that remains.

16 CHAIRMAN SALADINO: I apologize.
17 I got confused when you told me the new
18 front entrance is going to be on the
19 side. I apologize. I just didn't
20 remember that the front entrance is
21 going to be on the side.

22 MS. GORDON: You've revised --
23 essentially revised my motion, so I
24 should withdraw it, right?

25 MR. REARDON: No, I would just

1 like to just include item 2. Your
2 motion stays except for item 2.

3 MS. GORDON: Okay.

4 MR. REARDON: About the front yard
5 setback.

6 MS. GORDON: That's fine with me.
7 Is that okay, John?

8 CHAIRMAN SALADINO: Sure. If
9 everyone decides that's what they want
10 to do. I'm personally of the opinion
11 that until there was a -- I think there
12 should have been a discussion between
13 the attorney and the Building
14 Department about how to progress these
15 variances, how the Village would like
16 to progress the variances, how they
17 want to interpret what was there
18 previously, how it should be dealt
19 with, and I think that should have been
20 a conversation between the Planning
21 Board's attorney perhaps at a later
22 date and the Building Department so the
23 Zoning Board would get to have an up
24 and down vote on what's on the notice
25 of disapproval and not a debate -- not

1 to debate what we think policy should
2 be. We don't make policy, the Village
3 makes policy. But I think this is an
4 elaborate solution to an almost
5 nonexisting problem, and I'm willing to
6 vote however you guys want. My opinion
7 will be expressed in my vote.

8 MS. GORDON: I have a question for
9 the lawyer. If we voted for a variance
10 for the front yard setback, would that
11 change the designation of a
12 nonconforming building? Does it update
13 it in some way that is meaningful?

14 ATTORNEY CONNELLY: That's
15 meaningful? No, I don't think that's
16 meaningful. I think what's going to
17 happen is any time that you have a
18 preexisting nonconforming structure
19 that's doing work that needs a building
20 permit it's going to go into the
21 Building Department, and even if the
22 work that's being contemplated by the
23 permit doesn't require a variance
24 they're going to now look at the survey
25 and say well, you have a nonconforming

1 front yard setback, so you have to go
2 to the Zoning Board for just that
3 relief.

4 CHAIRMAN SALADINO: Wouldn't that
5 go to the Building Department only if
6 they increased the nonconformity of the
7 property -- of the building, not the
8 property, the building?

9 ATTORNEY CONNELLY: I don't think
10 it would make a difference.

11 CHAIRMAN SALADINO: Isn't that the
12 policy we've been --

13 MR. PALLAS: Yes. That's if --
14 essentially if no -- if none of the
15 contemplative work requires a variance
16 then we don't look at preexisting.
17 It's only if some of the work requires
18 a variance, as the Chair stated, we try
19 to legitimize all the preexisting just
20 mainly for the record essentially.
21 That's been the direction we've been
22 going in.

23 ATTORNEY CONNELLY: I don't think
24 that's right but that's not my
25 decision.

1 MR. REARDON: Does that mean down
2 the road if a succeeding purchaser that
3 does a renovation, and they need to get
4 a variance for another part of the
5 property let's say, will that then show
6 up on their need for a variance? If
7 they still had a nonconforming front
8 yard setback and now when this
9 particular client is going through this
10 process to get a variance approved for
11 that front yard setback ten years from
12 now, would a new owner have to go
13 through that same procedure?

14 MR. PALLAS: That's really a
15 question for the attorney, but I would
16 look at that since it was -- if you
17 move forward with this and grant the
18 variance for the front yard setback,
19 now that's the new -- that wouldn't
20 have to go back again. So I think
21 that's the concept of legitimizing the
22 existence of a nonconformity.

23 CHAIRMAN SALADINO: Did you have
24 another question for the attorney?

25 MS. GORDON: No, I think I

1 understand this, but if I'm the only
2 person who is a little bit concerned
3 about a future -- that's what I've been
4 wondering, if in the future it would
5 have to be renegotiated, this
6 nonconformity that was determined very
7 long ago, but I don't think it's very
8 important, and now we're dealing only
9 with the front facade, not with either
10 west or east side yard setbacks, so
11 maybe we should just go ahead. And are
12 we going to consider each variance?

13 CHAIRMAN SALADINO: I had
14 suggested that, but there was one I
15 would like to break out about the
16 parking to give the little bit more
17 discussion about the parking. I didn't
18 think it would be a problem to vote on
19 them in mass and just break that one
20 out, but I'm also -- I'm content to --
21 I'm willing to do one at a time. I
22 would ask the attorney as far as the
23 balancing test, do we have to -- I
24 wouldn't have to do the five questions
25 of the balancing test for each one of

1 these variances, we could just do them
2 once?

3 ATTORNEY CONNELLY: You can do
4 them for all.

5 CHAIRMAN SALADINO: So we can do
6 it -- whatever you want, we want to do
7 it one at a time, we can do it one at a
8 time. I'm going to have something to
9 say about the last variance about off
10 street parking. But before I do that,
11 let me -- is there a motion, did we
12 make a motion, was it seconded?

13 MR. REARDON: It was not seconded,
14 there was a motion.

15 CHAIRMAN SALADINO: I'm going to
16 put a pin in it. I'm going to make a
17 motion that the Zoning Board declare
18 itself lead agency for the purposes of
19 SEQRA. So moved.

20 MR. REARDON: Second.

21 CHAIRMAN SALADINO: All in favor?

22 MR. KAUFMAN: Aye.

23 MR. REARDON: Aye.

24 MS. GORDON: Aye.

25 CHAIRMAN SALADINO: I'm going to

1 make a motion that this is a Type II
2 action. So moved. All in favor?

3 MR. REARDON: Aye.

4 MS. GORDON: Aye.

5 MR. KAUFMAN: Aye.

6 CHAIRMAN SALADINO: And I'll vote
7 aye.

8 The questions that we would ask
9 for this balancing test, question
10 number 1 is whether an undesirable
11 change will be produced in the
12 character of the neighborhood or a
13 detriment to nearby properties would be
14 created by the granting of this area
15 variance? And the first area variance
16 that we're going to vote on is lot
17 coverage. This is a one family
18 dwelling. The maximum lot coverage is
19 30%. The specifications show that the
20 proposed lot coverage is 1,540 square
21 feet. The specifications show the
22 proposed lot coverage is 1,540, 35.7%.
23 The allowable lot coverage is 1,292
24 square feet. This would require an
25 area variance of 248 square feet or

1 5.7%. Jack?

2 MR. REARDON: The question is
3 whether this would propose an
4 undesirable change? No.

5 CHAIRMAN SALADINO: Dinni?

6 MS. GORDON: No.

7 CHAIRMAN SALADINO: Seth?

8 MR. KAUFMAN: No.

9 CHAIRMAN SALADINO: And I don't
10 think so.

11 We're skipping number 2 or we're
12 going to do number 2? I'm not sure
13 where we're at here with this. Number
14 2 on the balancing test is whether the
15 benefit sought by the applicant can be
16 achieved by some method feasible for
17 the applicant to pursue, other than an
18 area variance? We're still on the
19 first area variance. Jack?

20 MR. REARDON: No.

21 CHAIRMAN SALADINO: Dinni?

22 MS. GORDON: No.

23 CHAIRMAN SALADINO: Seth?

24 MR. KAUFMAN: No.

25 CHAIRMAN SALADINO: And I'll vote

1 no.

2 Number 3 is whether the requested
3 area variance is substantial? Jack?

4 MR. REARDON: No.

5 CHAIRMAN SALADINO: Dinni?

6 MS. GORDON: No.

7 CHAIRMAN SALADINO: Seth?

8 MR. KAUFMAN: No.

9 CHAIRMAN SALADINO: And I'll vote

10 no.

11 Whether the proposed variances
12 will have an adverse effect or impact
13 on the physical or environmental
14 conditions in the neighborhood or
15 district? Jack?

16 MR. REARDON: No.

17 CHAIRMAN SALADINO: Dinni?

18 MS. GORDON: No.

19 CHAIRMAN SALADINO: Seth?

20 MR. KAUFMAN: No.

21 CHAIRMAN SALADINO: And I'll vote

22 no.

23 Whether the alleged difficulty was
24 self-created, which consideration shall
25 be relevant to the decision of the

1 Board of Appeals but shall not
2 necessarily preclude the granting of
3 the area variance? Jack?

4 MR. REARDON: Yes.

5 CHAIRMAN SALADINO: Dinni?

6 MS. GORDON: Yes.

7 CHAIRMAN SALADINO: Seth?

8 MR. KAUFMAN: Yes.

9 CHAIRMAN SALADINO: And I'll vote
10 yes.

11 I'm going to make a motion we
12 approve this area variance. Jack?

13 MR. REARDON: Yes.

14 CHAIRMAN SALADINO: Dinni?

15 MS. GORDON: Yes.

16 CHAIRMAN SALADINO: Seth?

17 MR. KAUFMAN: Yes.

18 CHAIRMAN SALADINO: And I'll vote
19 yes.

20 The next one we're skipping or
21 we're going to do it?

22 MS. GORDON: That's what I think,
23 but I'm only one person.

24 MR. REARDON: Do it.

25 CHAIRMAN SALADINO: All right.

1 Our attorney says we don't have to go
2 through every one of these questions
3 for every variance. The second
4 variance is a one family dwelling,
5 front yard setback, 30 feet. The plan
6 shows the front yard setback of 14.7
7 feet. The required front yard setback
8 is a minimum of 30 feet. This would
9 require an area variance of 15.3 feet.
10 I'm going to make a motion that we
11 approve this area variance. So moved.
12 Jack?

13 MR. REARDON: Approve.

14 CHAIRMAN SALADINO: Is that a yes?

15 MR. REARDON: Yes.

16 CHAIRMAN SALADINO: Dinni?

17 MS. GORDON: Yes.

18 CHAIRMAN SALADINO: Seth?

19 MR. KAUFMAN: Yes.

20 CHAIRMAN SALADINO: And I'll vote
21 yes.

22 The third variance is the total
23 dimensions of -- are we doing this one,
24 we're doing number 3?

25 MS. GORDON: Yeah.

1 CHAIRMAN SALADINO: The total
2 dimensions of both side yards for a
3 principal building shall be computed on
4 the basis of four-tenths of the lot
5 width, however, no side yard dimensions
6 shall be less than four-tenths of the
7 total dimensions of both sides computed
8 as aforesaid. No side yard dimensions
9 shall be less than 10 feet. This plan
10 shows a west yard setback of 5.7 feet.
11 The required side yard setback is the
12 minimum of 10 feet. This would require
13 an area variance of 4.3 feet. I'm
14 going to make a motion we approve this
15 area variance. So moved. Jack?

16 MR. REARDON: I'll second that and
17 approve.

18 CHAIRMAN SALADINO: Yes. Dinni?

19 MS. GORDON: Yes.

20 CHAIRMAN SALADINO: Seth?

21 MR. KAUFMAN: Yes.

22 CHAIRMAN SALADINO: And I'll vote
23 yes.

24 Moving on. Did we decide about
25 number 4?

1 MR. KAUFMAN: We should do it.

2 CHAIRMAN SALADINO: Do it. The
3 plan shows an east yard setback of 1.5
4 feet. The required side yard setback
5 is a minimum of 10 feet. This would
6 require an area variance of 8.5 feet.
7 I'm going to make a motion we approve
8 this area variance. Jack?

9 MR. REARDON: Yes.

10 CHAIRMAN SALADINO: Dinni?

11 MS. GORDON: Yes.

12 CHAIRMAN SALADINO: Seth?

13 MR. KAUFMAN: Yes.

14 CHAIRMAN SALADINO: And I'll vote
15 yes.

16 The total dimension -- I lost my
17 place, sorry, folks. The calculated
18 combined side yard setback -- oh, wait.
19 Let me start from the beginning. The
20 total dimensions of both side yards for
21 a principal building shall be computed
22 based on four-tenths of the lot width,
23 however, no side yard dimension shall
24 be less than four-tenths of the total
25 dimensions of both side yards computed

1 as aforesaid. No side yard dimension
2 shall be less than 10 feet. The
3 calculated combined yard setback is
4 13.1 feet. The plans show a proposed
5 combined setback of 7.2 feet. This
6 would require an area variance of 5.9
7 feet. I'm going to make a motion that
8 we approve this area variance. Jack?

9 MR. REARDON: Yes.

10 CHAIRMAN SALADINO: Dinni?

11 MS. GORDON: Yes.

12 CHAIRMAN SALADINO: Seth?

13 MR. KAUFMAN: Yes.

14 CHAIRMAN SALADINO: And I'll vote
15 yes.

16 The next request is a one family
17 dwelling, number of stories permitted
18 is 2 and one-half. This plan shows the
19 conversion of the attic to livable
20 space. The maximum permitted number of
21 stories is 2 and a half. This would
22 require a variance for the third story.
23 I'm going to make a motion we approve
24 this area variance. Jack?

25 MR. REARDON: Can I ask a

1 question --

2 CHAIRMAN SALADINO: Sure.

3 MR. REARDON: -- of the homeowner?

4 What rooms are -- what's the floor plan
5 for the third floor?

6 MR. ELKIN: So it would be two
7 bedrooms essentially and a small
8 landing and one bathroom. So what it
9 currently occupies is above the 2
10 bedrooms in the front and the hallway.

11 MR. REARDON: So two bedrooms and
12 a bathroom upstairs in what would be
13 the third floor?

14 MR. ELKIN: Yes, correct.

15 MR. REARDON: Okay. Thank you.

16 ATTORNEY CONNELLY: Do you have to
17 put a sprinkler?

18 MR. PALLAS: Yes.

19 CHAIRMAN SALADINO: That would be
20 for -- that's building permit stuff,
21 that's not -- did I make that motion?

22 MR. REARDON: I think you did.

23 Yes.

24 CHAIRMAN SALADINO: Dinni?

25 MS. GORDON: Yes.

1 CHAIRMAN SALADINO: Seth?

2 MR. KAUFMAN: Yes.

3 CHAIRMAN SALADINO: And I'm going
4 to vote yes.

5 The last variance for this
6 application is a one family dwelling,
7 off street parking. This plan shows no
8 off street parking will be provided.
9 The off street parking per dwelling
10 unit requires two off street parking
11 spaces. This would require a variance
12 of two off street parking spaces. I
13 think that if we look at the balancing
14 test there is an alternative for this
15 applicant to pursue, and my problem is
16 since we've dealt with this only with
17 -- I believe it pertains to the
18 Residential District also, but my
19 problem is that we've only dealt with
20 this issue in the CR or the waterfront
21 commercial. So since there's no site
22 plan approval, right, the Planning
23 Board wouldn't have to approve the site
24 plan?

25 MR. PALLAS: That's correct.

1 CHAIRMAN SALADINO: Since there's
2 no site plan approval, there's no
3 opportunity for this applicant if we
4 say no to go to the Planning Board. I
5 think that alternative -- I think the
6 alternative -- I think he should be
7 afforded -- the Village should be
8 afforded the opportunity for the
9 applicant to go in front of the
10 Planning Board and request payment in
11 lieu of parking for these two parking
12 spaces before the Zoning Board votes on
13 it. If the Zoning Board votes on it
14 and it's yes, you get the variance. If
15 the Zoning Board votes no -- I'm not
16 inclined to vote for this, I'll be
17 honest with you. I don't know how my
18 colleagues feel. If the Zoning Board
19 votes no, it dies here. You have no
20 opportunity to go to the Planning
21 Board. Me personally, I would like to
22 see the applicant go to the Planning
23 Board, request payment in lieu of
24 parking for the two spaces, and it
25 would be off of the Zoning Board's

1 place, but I'm willing for some
2 discussion, some input here from my --

3 MS. GORDON: I think it's
4 physically impossible to require --

5 MR. KAUFMAN: Sorry. I think it's
6 an existing nonconformity just like the
7 front yard. It's the way that house
8 was set up. There's no way to put two
9 parking spots on that property.

10 MS. GORDON: Yeah, and if there's
11 no way to put two parking places and we
12 send them to the Planning Board asking
13 them to pay for two parking, it's just
14 -- it seems to me our motivation then
15 becomes just the income prospect for
16 the Village, and I'm a little
17 uncomfortable about that.

18 CHAIRMAN SALADINO: The income
19 prospect for the Village, the payment
20 in lieu of parking, the money that
21 applicants pay into that go into a
22 dedicated fund that funds alternative
23 parking in the Village. So it's a fund
24 that would be used to alleviate the
25 well known parking problem in

1 Greenport. Does it effect that
2 particular -- does it effect 148 Bay
3 Avenue at this particular moment in
4 time? No.

5 MS. GORDON: No, but that's not
6 the case.

7 ATTORNEY CONNELLY: There's
8 nothing for the Planning Board to
9 consider. There's no site plan
10 application. You can't just send it to
11 the Planning Board for them to sign the
12 parking in lieu fee.

13 CHAIRMAN SALADINO: Isn't the
14 Planning Board the final arbitrator on
15 payment in lieu of parking?

16 ATTORNEY CONNELLY: But what's the
17 application before the Planning Board
18 to send to the Planning Board? You
19 can't just compel them to make an
20 application to the Planning Board.

21 CHAIRMAN SALADINO: Can you
22 explain to me where in the code that
23 the Residential District is exempt
24 from --

25 ATTORNEY CONNELLY: Where in the

1 code does it say though that the Zoning
2 Board can compel an applicant?

3 CHAIRMAN SALADINO: No, it says
4 that the Zoning Board can require off
5 street parking, can either approve or
6 deny off street parking, the lack of
7 off street parking. The relief to that
8 is to apply -- is to request from the
9 Planning Board payment in lieu of.

10 ATTORNEY CONNELLY: But again, as
11 Seth just pointed out too, there's
12 never been parking at this property, so
13 it's a preexisting nonconforming.
14 You're going to -- I'm sure there's
15 dozens of properties in the Village
16 that -- residential properties that
17 don't have any off street parking.
18 They're all going to have to go to the
19 Planning Board.

20 CHAIRMAN SALADINO: So?

21 MR. KAUFMAN: But this isn't a
22 choice. This isn't someone who is
23 developing a property and simply
24 doesn't want to provide the required
25 parking, and therefore is providing

1 payment in lieu. This is a property
2 where there's no reasonable prospect of
3 them putting off street parking in
4 there that I can see.

5 CHAIRMAN SALADINO: What would
6 happen -- so you're saying the Zoning
7 Board is obligated to approve this --
8 would be obligated to approve this
9 variance? Because then why wasn't this
10 broken out in our discussion?

11 MR. KAUFMAN: Why wasn't off
12 street parking? Aren't we talking
13 about it right now?

14 CHAIRMAN SALADINO: No, no, as far
15 as whether voting on a particular
16 question of policy. We spoke about a
17 question of policy if certain variances
18 didn't belong on the notice of
19 disapproval. If that's, in fact, the
20 case with this, why wasn't this broken
21 out? I personally believe it should be
22 there and my opinion will be expressed
23 in my vote, but we can just vote on it.

24 MR. KAUFMAN: Look, I think it's a
25 situation where all Zoning is about

1 fairness and about taking into account
2 the overall situation. I don't see how
3 you can force someone to create off
4 street parking where it's functionally
5 virtually impossible to do that or send
6 them off to pay a fee.

7 CHAIRMAN SALADINO: We don't
8 legislate, we read the code. We can't
9 add or subtract from the code. Like I
10 said --

11 MR. KAUFMAN: Then we should deny
12 it. If that's how -- if it's that
13 rigid, then we should deny it. But I
14 think there's no way for him to comply
15 with this.

16 CHAIRMAN SALADINO: Well,
17 according to the Code there is a way
18 for him to comply. He could be exempt
19 from parking, he could pay for it.

20 MR. KAUFMAN: Is that actually
21 true though? I mean, if you're saying
22 he can't go to the Planning Board?

23 ATTORNEY CONNELLY: I don't see
24 what the application would be for the
25 Planning Board. There's no application

1 for that.

2 MR. PALLAS: I don't -- I'm not
3 sure of the mechanism to get it to the
4 Planning Board.

5 CHAIRMAN SALADINO: Well, let me
6 -- we're burning a lot of time. We're
7 killing a lot of time on this, and I
8 apologize to the public. There's
9 another application after this. I
10 apologize to them for holding it up.
11 We all know -- as members of the Zoning
12 Board we all know the exact process of
13 how something gets in front of the
14 Zoning Board. I didn't think to get in
15 front of the Planning Board was that --
16 actually their mandate says they'll
17 rule on payment in lieu of parking.
18 Here is an applicant that wants to --
19 I'm not saying that wants to, that
20 might have to apply for payment in lieu
21 of parking. Why wouldn't that be
22 reason enough to get in front of the
23 Planning Board?

24 ATTORNEY CONNELLY: Then that
25 would go before the Planning Board in a

1 site plan application.

2 CHAIRMAN SALADINO: No, you're
3 adding those words. Where does it say
4 it has to go in front of the Planning
5 Board in a site plan?

6 ATTORNEY CONNELLY: Because the
7 Planning Board only decides subdivision
8 review, site plan review, and curb
9 cuts.

10 CHAIRMAN SALADINO: I thought the
11 Planning Board decided anything that
12 was within their mandate, anything
13 that's in Chapter 150-30.

14 ATTORNEY CONNELLY: Which is site
15 plan and subdivision.

16 CHAIRMAN SALADINO: And judicial
17 uses and a few other things. Rob, I
18 don't want to get in a big debate here.
19 I mean, we'll just vote. I'll make the
20 motion and we'll just vote. Obviously,
21 you know, the opinion --

22 MR. KAUFMAN: Sounds good.

23 CHAIRMAN SALADINO: All right.

24 MS. GORDON: I have a question.

25 Could we vote to conditionally require

1 a -- probably not two spaces as I
2 understand it, two spaces would be
3 impossible. Could we vote for a
4 variance for one space or condition a
5 request -- condition an approval on the
6 creation of one space, which we've
7 determined there is room for, even if
8 it's a little cramped.

9 CHAIRMAN SALADINO: We saw the
10 home that Mr. Elkin wants to
11 revitalize. Do we really want to
12 condition making him put his Prius or
13 his Escalade on his front lawn? I
14 mean, is that something we really want
15 to see on Bay Avenue?

16 MS. GORDON: Well, but the
17 alternative that you're proposing is to
18 go pay for two parking spaces. I don't
19 know why that's different. Why is it
20 conceptually different?

21 CHAIRMAN SALADINO: Well, because
22 the money will go into a dedicated
23 fund. The Village -- plus it's part of
24 our code, it's in our code, it's not
25 like we're making this up, I mean, it's

1 there. If you can't provide off street
2 parking you can request up to 20 spaces
3 from the Planning Board for payment in
4 lieu of, it will go into a dedicated
5 fund, and sometime in the future if
6 this is progressed with other
7 properties and different buildings and
8 in the future there will be sufficient
9 parking in Greenport that there won't
10 be a problem to park or the Village
11 Board -- we don't legislate, the
12 Village Board will take a look at that,
13 which I believe they're looking at now,
14 aren't they? Payment in lieu of?

15 MR. PALLAS: Yes, that is under
16 review right now.

17 CHAIRMAN SALADINO: It's under
18 review right now, and they might create
19 legislation that further clarifies
20 this, but right now I'm just reading
21 the Code. The Code says he has to
22 provide off street parking, he can't,
23 the alternative to that is either a
24 variance or payment in lieu of. I
25 don't know, to me it's kind of like

1 black and white. But again, I'm
2 prepared to just call the vote.

3 MR. KAUFMAN: Just to ask one more
4 time, can they actually go and apply
5 for this, is that actually possible?

6 ATTORNEY CONNELLY: I don't see
7 what the mechanism is to get in front
8 of the Planning Board.

9 MR. KAUFMAN: Can they actually do
10 this, or are they just going to be
11 coming around again?

12 MR. PALLAS: I don't know of any
13 mechanism. I'll defer to the
14 attorney's answer on that.

15 MR. KAUFMAN: I don't see how we
16 can vote to send them for something
17 that's not clear that they can actually
18 do.

19 MS. GORDON: I agree.

20 MR. KAUFMAN: I don't think that's
21 really a viable path.

22 MR. REARDON: What's to prevent a
23 resident from filling out an
24 application to the Planning Board and
25 seeking the purchase of anywhere up to

1 20 spots? Any resident could do it at
2 any time if they don't have off street
3 parking and they wish to. They can't
4 simply make an application to the
5 Planning Board?

6 CHAIRMAN SALADINO: Jack, I
7 honestly didn't think it was that
8 complicated. I thought it was
9 relatively routine, but apparently it
10 is.

11 MR. REARDON: I know we're working
12 through this, but we have chosen to --

13 CHAIRMAN SALADINO: I'm willing
14 to --

15 MR. REARDON: -- handle them all.

16 CHAIRMAN SALADINO: I'm willing
17 to --

18 MS. GORDON: I also don't think
19 the two off street parking space
20 requirement is enforced, and I will
21 confess that when I built my house
22 nobody even mentioned two parking
23 spaces. We have one parking space,
24 which is all we need but --

25 CHAIRMAN SALADINO: Do we really

1 want to open up Pandora's -- do we
2 really want to open up that Pandora's
3 box about what happened? I mean,
4 remember what we said, we shouldn't be
5 looking back. Do we really want to
6 talk about an application from 12 years
7 ago that didn't require two parking
8 spaces?

9 MS. GORDON: No, I was just
10 illustrating the fact that it's a
11 complex issue, which is often not
12 handled with any legal rigor.

13 MR. KAUFMAN: Look, we should vote
14 on this so that way we can get to the
15 other ones, right? But if the rest of
16 the Board feels strongly that we should
17 not grant this and send them to the
18 Planning Board, let's do that, but then
19 we should at least have a plan for what
20 happens if the Planning Board won't
21 take it so we're not in limbo. The
22 entire project hinges on this vote.

23 MS. GORDON: Can we approve
24 everything else and let them do their
25 work while this particular thing gets

1 worked out for another month?

2 CHAIRMAN SALADINO: It would just
3 mean -- it would mean a trip to either
4 back here -- the Planning Board meets
5 on Thursday, right? I'll tell you
6 what, I'm going to call this vote. I'm
7 going to call this vote. I'm going to
8 make a motion that we approve -- the
9 plan shows no off street parking to be
10 provided. The off street parking per
11 dwelling unit requires two off street
12 parking spaces. This would require a
13 variance of two off street parking
14 spaces. I'm going to make a motion
15 that we approve this variance. Jack?

16 MR. REARDON: Yes.

17 CHAIRMAN SALADINO: Dinni?

18 MS. GORDON: Yes.

19 CHAIRMAN SALADINO: Seth?

20 MR. KAUFMAN: Yes.

21 CHAIRMAN SALADINO: I'll vote no.

22 Easy peasy.

23 MS. GORDON: So that's it.

24 CHAIRMAN SALADINO: Anybody has a
25 problem with that, the decision will be

1 at Village Hall in five days. If you
2 want judicial review, go see them for
3 the decision. Thank you, folks.

4 Item number 6 is 220 Fifth Avenue.
5 This is going to be a discussion and
6 possible motion on area variances
7 applied for by Ian Crowley and Angelo
8 Stepnoski for the property located at
9 220 Fifth Avenue, Greenport, New York
10 11944. The Suffolk County Tax Map
11 Number is 1001-4-8-7. The public
12 hearing was held. It was closed. We
13 postponed our discussion for a month.
14 We as a Board we decided we would take
15 this up. I'm going to open it up to
16 the members, is there any discussion
17 about this? Or if not, I can start,
18 whatever you guys want to do. Again,
19 the balancing test, those five
20 questions, you should kindly respond to
21 those five questions and this way we
22 can create a narrative if there's
23 someone that either the applicant or a
24 member of the public that isn't happy
25 with our decision, the narrative is

1 there for judicial review if that comes
2 to it.

3 MS. HOEG: Does the applicant have
4 a right to speak?

5 CHAIRMAN SALADINO: I thought the
6 public hearing was closed.

7 MS. HOEG: The public hearing was
8 closed, but in your minutes of the last
9 meeting the Board decided to give us at
10 least 62 days until there was a five
11 member board.

12 CHAIRMAN SALADINO: No, no, what
13 we said was --

14 MS. HOEG: I have the transcripts.
15 It says that.

16 CHAIRMAN SALADINO: We said we
17 have up to 62 says to make a decision.

18 MS. HOEG: Right. And it says
19 that the applicant can request
20 additional time, and then the Board
21 voted to grant that additional time.

22 CHAIRMAN SALADINO: No, we never
23 voted to grant the additional time.

24 MS. HOEG: It says right on page
25 50, page 51, and page 52 where you

1 specifically said I was going to ask
2 since we did close the public hearing
3 and we agreed not to vote until the
4 fifth member was present, does that
5 preclude us from having any discussion
6 on the application? And Attorney
7 Connelly said yes. It's right here in
8 the transcript of the last meeting.

9 CHAIRMAN SALADINO: What does that
10 have to do with 62 days?

11 MS. HOEG: It doesn't have
12 anything to do with 62 days. The
13 conversation --

14 CHAIRMAN SALADINO: So your
15 contention is that we should hold this
16 decision until the fifth member is able
17 to attend?

18 MS. HOEG: That's what we had
19 requested and that's what the Board
20 granted at the last meeting in
21 November. It's in the transcript. The
22 Board voted on it.

23 MS. GORDON: Was it that we
24 granted it for a month or forever?

25 MS. HOEG: So the conversation

1 went on and it said that we agreed not
2 to vote until the fifth member was
3 present, and then the conversation was
4 that the applicant can request
5 additional time if need be.

6 MS. GORDON: So it was for more
7 than one month. That I was not sure
8 of.

9 MS. HOEG: Yes, that is correct.

10 CHAIRMAN SALADINO: I think we
11 made a mistake, and I'm willing to
12 admit it. I think we made a mistake.
13 To leave this open ended until a member
14 can attend I think is unfair to the
15 neighborhood, it's unfair to this
16 Board.

17 MS. HOEG: That's not fair to the
18 applicant. You agreed to it.

19 CHAIRMAN SALADINO: Well, why is
20 it unfair? In your experience as a
21 Zoning attorney, is it usual that a
22 full board gets to vote on -- you've
23 never had the experience where a quorum
24 got to vote on an application?

25 MS. HOEG: If an applicant made

1 the request for the extension on a
2 decision, and the Board granted it,
3 then yes, my experience is that that
4 decision prevails. I'm sure
5 Mr. Connelly can attest to that as
6 well. The Board made the decision in
7 the prior meeting.

8 CHAIRMAN SALADINO: To ask for an
9 extension is not the same as saying to
10 hold a decision until a member can
11 attend or a new member is appointed.
12 That's not the same.

13 MS. HOEG: But that was what was
14 asked for and that was what was granted
15 by the Board.

16 ATTORNEY CONNELLY: There's no
17 case law on it. The case that I was
18 thinking of wasn't specific to --

19 CHAIRMAN SALADINO: That was my
20 next question, do you have case law
21 that says that we're obligated to do
22 this? I'm willing to make a motion
23 here that we take up this application.
24 It's obvious that one of our members
25 hasn't been able to attend and might

1 not be able to attend. Nothing in New
2 York State Village Law, Chapter 700 of
3 New York State Village Law says that we
4 need five members to make this
5 decision. We have a quorum. What is
6 your applicant's -- what is your
7 concern for your applicant?

8 MS. HOEG: The request was made to
9 the Board --

10 CHAIRMAN SALADINO: I understand.
11 You keep repeating that.

12 MS. HOEG: Right. And well, I am
13 repeating myself because we asked for
14 it at the last meeting for the
15 opportunity to have the other board
16 member review the testimony and make a
17 decision and weigh in on that as part
18 of the Board discussion, and the Board
19 granted it. Every member of the Board
20 said yes, that they agreed to that.

21 CHAIRMAN SALADINO: Perhaps every
22 member of the Board thought that we
23 would have a full Board within a month
24 or so.

25 MS. HOEG: But it wasn't limited

1 to a month at the last discussion.

2 CHAIRMAN SALADINO: But don't you
3 think being reasonable that it would be
4 unreasonable to keep this proceeding
5 open until there's a fifth member,
6 especially when there's nothing in New
7 York State Law that says we're
8 obligated to do that? Well, I
9 understand we agreed to that, but I'm
10 thinking we have the option to --

11 ATTORNEY CONNELLY: I think the
12 fear is that if it's a 2-2 vote it's a
13 denial.

14 CHAIRMAN SALADINO: We understand
15 the fear. We understand the concern,
16 but we also understand there's a need
17 to discuss this application while the
18 information is fresh in our minds,
19 while the neighbor's testimony is fresh
20 in our minds, while the applicant's
21 narrative is fresh in our minds. To
22 bring this up in six months or four
23 months or whatever you think is
24 reasonable I think is unreasonable.

25 MS. GORDON: Rob, were you about

1 to suggest a sort of straw poll?

2 ATTORNEY CONNELLY: That's what I
3 was going to say, if you wanted to poll
4 the --

5 MS. GORDON: I thought of that
6 too, but it seems a little
7 disingenuous.

8 CHAIRMAN SALADINO: I'm not sure
9 what you're suggesting.

10 MS. GORDON: A sort of straw poll
11 on how to -- I mean, obviously if we're
12 sort of in agreement on this
13 application then there wouldn't be the
14 problem, but --

15 CHAIRMAN SALADINO: I have a
16 question for the attorney. What would
17 prevent us from having the discussion?
18 What would prevent us from having the
19 discussion since there is -- since the
20 member is not here. If the member
21 shows up next month, the way she would
22 be privileged to the discussion is via
23 minutes or video tape, which if we have
24 the discussion, the member could review
25 the video tape and the minutes.

1 ATTORNEY CONNELLY: You're not
2 voting, you're not talking about voting
3 on it, you're just talking about having
4 a discussion?

5 CHAIRMAN SALADINO: I'm not sure
6 we can't vote. I'm not sure I agree
7 with either one of you that we can't
8 vote. I don't see anything that
9 prevents us from voting. But I think
10 to progress an application -- to hold
11 back an application because -- well,
12 let me ask you this: We have 62 days
13 to make a decision. The applicant has
14 the right to ask for additional time.
15 The Zoning Board has to agree to it.
16 That's the way the law is written, I
17 have it here if you want to read it.

18 ATTORNEY CONNELLY: I don't need
19 to read it. I know it.

20 CHAIRMAN SALADINO: The Zoning
21 Board has the right to say no, we're
22 not going to grant you additional time.
23 If the applicant wants to wait until
24 the member shows up and it goes past 62
25 days, doesn't that become a default

1 decision?

2 ATTORNEY CONNELLY: No, there's no
3 default decision with the Zoning Board.
4 It's only in subdivision review are
5 there default decisions.

6 CHAIRMAN SALADINO: Don't you hate
7 when there's, like, a dispute between
8 the Zoning Board and their attorney in
9 front of the public?

10 MS. GORDON: I wouldn't call it a
11 dispute.

12 CHAIRMAN SALADINO: I think it's
13 unreasonable to carry this forward. I
14 think it's unreasonable to do that. I
15 think the only reason we're doing it is
16 because the applicant is concerned
17 about a 2-2 vote. I think that --

18 MS. GORDON: Well, if we took this
19 straw poll idea, and it wasn't a 2-2
20 vote I suppose then if the applicant
21 lost then the applicant has another --

22 CHAIRMAN SALADINO: Well, the
23 applicant's attorney's contention is
24 regardless how the vote goes or what
25 the narrative is is that we agreed to

1 wait for the fifth member. I think
2 that's unreasonable.

3 ATTORNEY CONNELLY: If you do the
4 straw poll, I think that's a good
5 suggestion because then it's --

6 CHAIRMAN SALADINO: It's what?

7 ATTORNEY CONNELLY: Well, then you
8 would know where the votes would come
9 down, it's going to be a 3-1 vote, or a
10 4-0 vote, or a 2-2 vote.

11 CHAIRMAN SALADINO: That's not
12 what the applicant is asking for. The
13 applicant is asking for the fifth
14 member. There was no mention of a 2-2
15 vote. We all know that's the reason,
16 but there was no mention of that.

17 ATTORNEY CONNELLY: I think
18 that's --

19 MS. HOEG: If I may, why don't I
20 propose you give us the 62 days and at
21 the next month's meeting we'll see
22 whether the other board member is here
23 or not?

24 CHAIRMAN SALADINO: Because the
25 next meeting is after 62 days.

1 MS. HOEG: Okay.

2 MR. REARDON: Isn't the next
3 meeting on the 62nd day or the 61st
4 day?

5 CHAIRMAN SALADINO: No, I thought
6 it was the 65th day I thought, but I
7 could be wrong. My suggestion to the
8 applicant is that the Board -- that the
9 Board have its discussion. You listen
10 to the discussion --

11 MS. GORDON: It's like guessing
12 what the Supreme Court is going to do.
13 You listen to the discussion, you think
14 it's going to go one way and it goes
15 the other way.

16 CHAIRMAN SALADINO: Well, what I
17 was going to say is you listen to the
18 discussion and the Board takes a straw
19 poll after the discussion, and then
20 perhaps the application can either sit
21 or be progressed tonight.

22 MS. GORDON: Well, isn't the
23 applicant going have a good idea of how
24 the vote is going to go if we have just
25 the discussion?

1 CHAIRMAN SALADINO: My point
2 exactly. But what -- and I just said,
3 that's not -- that's not what I hear
4 from the applicant's attorney that --
5 all I'm hearing from the applicant's
6 attorney is that they want the fifth
7 member. There's no mention about a
8 vote. We're assuming that's the reason
9 that they would rather have the -- I
10 personally think, and I'm going to say
11 it here and now, I personally think
12 that we made an enormous mistake by
13 considering that. We've never done it
14 before. I don't know any Zoning Board
15 that's ever done it. I think we made a
16 mistake and now we should try to
17 correct that mistake. We shouldn't let
18 a bad decision or a mistake play
19 forward is what I'm saying. But again,
20 I'm only one vote.

21 MS. GORDON: Well, John, I think
22 you have to lead us in this. What
23 should we do?

24 CHAIRMAN SALADINO: I think we
25 should take two and hit the right. I

1 expressed my opinion. I don't think
2 anybody swore under oath. I think if
3 the applicant's attorney feels that us
4 voting now to take this application
5 under consideration, have a discussion,
6 and vote, if they feel that's cause for
7 judicial review then by all means they
8 should be able to do that. I would
9 find that since there is no case law
10 requiring us to do that and since we
11 have the opportunity to correct the
12 mistake, we'll -- that's my opinion.

13 MS. HOEG: I'd like to withdraw
14 the application.

15 CHAIRMAN SALADINO: The applicant
16 withdraws the application. Item number
17 6.

18 Item number 7 is any other Zoning
19 Board of Appeals business that might
20 properly come before this Board.
21 Anybody? This is your shot. No?

22 Item number 8 is a motion to
23 adjourn. So moved.

24 MR. KAUFMAN: Second.

25 CHAIRMAN SALADINO: All in favor?

1 MS. GORDON: Aye.

2 MR. REARDON: Aye.

3 MR. KAUFMAN: Aye.

4 CHAIRMAN SALADINO: And I'll vote
5 aye.

6 Folks, thank you for coming. Have
7 a Merry Christmas.

8 (The meeting was adjourned at 7:17
9 p.m.)

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I, AMY THOMAS, a Court Reporter and Notary Public, for and within the State of New York, do hereby certify:

THAT the above and foregoing contains a true and correct transcription of the proceedings held on December 21, 2021, and were reported by me.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of December, 2021.

AMY THOMAS

A				
ability 22:18 able 58:16 60:25 61:1 69:8 ABSENT 1:24 absolutely 16:15 accept 2:9 accepted 20:8 accepting 22:19 account 47:1 achieve 14:7 achieved 33:16 action 32:2 71:11 add 47:9 added 16:24 adding 6:3,4 49:3 addition 24:6 additional 6:5 17:22 57:20,21,23 59:5 64:14,22 address 7:2 adjourn 69:23 adjourned 70:8 administrative 16:4 Administrator 1:20 11:12 admit 59:12 adopted 15:1 adverse 34:12 afforded 42:7,8 aforsaid 37:8 39:1 agency 31:18 agenda 4:5,6 ago 5:12 30:7 54:7 agree 13:3,14 52:19 64:6,15 agreed 58:3 59:1,18 61:20 62:9 65:25 agreement 15:20 63:12 ahead 30:11 albeit 15:22 24:22 alleged 34:23 alleviate 43:24 allowable 32:23 allowance 10:18 alteration 13:13 alternative 8:21,25	9:10,11 10:19 41:14 42:5,6 43:22 50:17 51:23 AMANDA 1:22 amount 6:2 24:23 AMY 71:3,18 Angelo 56:7 answer 52:14 anybody 17:25 18:7 55:24 69:2 69:21 apologize 25:16,19 48:8,10 apparently 53:9 Appeals 1:4 2:5,10 2:21 3:7 35:1 69:19 applicant 5:4 33:15 33:17 41:15 42:3 42:9,22 45:2 48:18 56:23 57:3 57:19 59:4,18,25 61:7 64:13,23 65:16,20,21 66:12 66:13 67:8,23 69:15 applicant's 22:17 61:6 62:20 65:23 68:4,5 69:3 applicants 3:21 43:21 application 5:7,10 8:18,18 18:6 19:3 41:6 44:10,17,20 47:24,25 48:9 49:1 52:24 53:4 54:6 58:6 59:24 60:23 62:17 63:13 64:10,11 67:20 69:4,14,16 applied 3:20 18:19 56:7 applies 11:17 apply 45:8 48:20 52:4 appointed 60:11 Appreciate 18:3 approval 41:22 42:2 50:5	approve 2:20 19:18 35:12 36:11,13 37:14,17 38:7 39:8,23 41:23 45:5 46:7,8 54:23 55:8,15 approved 29:10 approving 22:20 arbitrator 44:14 Architects 7:23 architectural 5:18 area 3:20 4:3,4,5 8:22 10:6 18:18 23:25 24:3 32:14 32:15,25 33:18,19 34:3 35:3,12 36:9 36:11 37:13,15 38:6,8 39:6,8,24 56:6 areas 24:16 arises 17:6 asked 17:8 60:14 61:13 asking 9:14 43:12 66:12,13 assuming 68:8 attached 3:24 attend 58:17 59:14 60:11,25 61:1 ATTENDANCE 1:19 attest 60:5 attic 39:19 attorney 1:21 13:3 13:12,21 15:8 17:18 26:13,21 27:14 28:9,23 29:15,24 30:22 31:3 36:1 40:16 44:7,16,25 45:10 47:23 48:24 49:6 49:14 52:6 58:6 59:21 60:16 62:11 63:2,16 64:1,18 65:2,8 66:3,7,17 68:4,6 69:3 attorney's 52:14 65:23 AURICHIO 1:22	Avenue 3:18 4:18 4:19,22,23 5:1 18:21 44:3 50:15 56:4,9 aye 2:14,15,16,18 2:25 3:1,2,4,13,14 3:15,17 18:12,13 18:14,16 31:22,23 31:24 32:3,4,5,7 70:1,2,3,5 <hr/> B <hr/> B 1:13 back 18:7,8 24:6 25:13 29:20 54:5 55:4 64:11 bad 68:18 balancing 8:20 30:23,25 32:9 33:14 41:13 56:19 based 12:18 38:22 basically 8:5 basis 20:9 37:4 bathroom 40:8,12 bay 3:18 4:18 18:20 25:11 44:2 50:15 bear 11:24 becoming 17:21 bedrooms 40:7,10 40:11 beginning 38:19 believe 20:25 41:17 46:21 51:13 belong 46:18 benefit 33:15 big 49:18 bigger 12:2 Bilco 23:24 24:2 bit 7:4,6 8:3 15:19 30:2,16 black 52:1 block 7:21 13:1 blood 71:11 board 1:4,21,22 2:5 2:10,21 3:6 6:15 7:13 9:14,25 10:7 10:11,25 11:4 14:13 21:4,22 22:10 23:1 26:23	28:2 31:17 35:1 41:23 42:4,10,12 42:13,15,18,21,23 43:12 44:8,11,14 44:17,18,20 45:2 45:4,9,19 46:7 47:22,25 48:4,12 48:14,15,23,25 49:5,7,11 51:3,11 51:12 52:8,24 53:5 54:16,18,20 55:4 56:14 57:9 57:11,20 58:19,22 59:16,22 60:2,6 60:15 61:9,15,18 61:18,19,22,23 64:15,21 65:3,8 66:22 67:8,9,18 68:14 69:19,20 Board's 10:1 26:21 42:25 Bond 4:20 book 12:11 box 54:3 break 30:15,19 Bridget 3:21 18:19 bring 14:5 62:22 broach 10:25 broken 46:10,20 Brooklyn 4:21 building 4:13 6:10 6:17,22 12:21 13:25 14:25 16:10 17:1,15 23:15,21 24:7 26:13,22 27:12,19,21 28:5 28:7,8 37:3 38:21 40:20 buildings 51:7 built 53:21 burning 48:6 business 69:19 <hr/> C <hr/> C 71:1,1 calculated 17:4 38:17 39:3 call 52:2 55:6,7 65:10

called 2:1	63:8,15 64:5,20	compact 7:25	conversation 26:20	December 1:11
candidly 11:5	65:6,12,22 66:6	compel 44:19 45:2	58:13,25 59:3	71:8,15
car 7:25,25 8:8,11	66:11,24 67:5,16	complex 54:11	conversion 39:19	decide 6:17 10:7
carry 65:13	68:1,24 69:15,25	complicated 53:8	copy 4:11	15:15,17 37:24
case 44:6 46:20	70:4	comply 47:14,18	corner 24:6	decided 17:16
60:17,17,20 69:9	Chalkin 4:19	computed 37:3,7	correct 24:1,11	49:11 56:14 57:9
cause 69:6	change 10:21 13:20	38:21,25	40:14 41:25 59:9	decides 26:9 49:7
ceiling 6:9	17:11 23:17,19	concept 29:21	68:17 69:11 71:7	decision 28:25
Central 4:19 5:1	27:11 32:11 33:4	conceptually 50:20	correctly 9:7	34:25 55:25 56:3
certain 9:19 46:17	changed 12:20	concern 7:4,13 61:7	cost 11:8	56:25 57:17 58:16
certainly 12:7 17:3	changes 25:10	62:15	County 1:2 4:7	60:2,4,6,10 61:5
certify 71:5,10	changing 6:13	concerned 30:2	18:22 56:10	61:17 64:13 65:1
Chair 28:18	12:24 24:9	65:16	couple 12:17	65:3 68:18
Chairman 1:14 2:3	Chapter 49:13 61:2	concerns 6:15	course 17:6	decisions 65:5
2:13,17,24 3:3,12	character 32:12	condition 50:4,5,12	Court 67:12 71:3	declare 31:17
3:16 5:3,6 6:16	Chi 4:20	conditionally 49:25	coverage 6:4 16:25	dedicated 43:22
8:10,17 9:8,23	choice 45:22	conditions 34:14	20:24 32:17,18,20	50:22 51:4
10:10 11:1,11,16	chosen 53:12	confess 53:21	32:22,23	Dee 23:2
11:19 12:9 13:24	Christmas 70:7	conformity 24:4	covered 20:24	default 64:25 65:3
14:23 15:6,13	clarification 22:4	confused 25:17	covers 6:19	65:5
16:9,14,17 17:15	clarifies 51:19	Connelly 1:21 13:3	CR 41:20	defer 52:13
17:25 18:4,11,15	clear 52:17	13:12,21 15:8	cramped 50:8	denial 62:13
19:8,15 20:3,10	clearly 12:25 14:14	17:18 27:14 28:9	create 47:3 51:18	Dennis 4:19
20:20 21:1,11,15	clerk 4:13,15	28:23 31:3 40:16	56:22	deny 19:19 45:6
21:21 22:3,7,9,15	client 29:9	44:7,16,25 45:10	created 32:14	47:11,13
22:21 23:4 24:25	close 13:9 18:9	47:23 48:24 49:6	creation 50:6	Department 4:13
25:5,16 26:8 28:4	23:14 58:2	49:14 52:6 58:7	Crowley 56:7	6:11,17 12:16,21
28:11 29:23 30:13	closed 56:12 57:6,8	60:5,16 62:11	CT 4:25	13:25 15:1 16:10
31:5,15,21,25	code 10:17 11:15	63:2 64:1,18 65:2	curb 7:9,20 49:8	17:16 26:14,22
32:6 33:5,7,9,21	11:22 14:6 16:20	66:3,7,17	current 10:17	27:21 28:5
33:23,25 34:5,7,9	44:22 45:1 47:8,9	CONNIE 1:25	currently 6:9 8:4	designation 22:2
34:17,19,21 35:5	47:17 50:24,24	consider 5:15 10:14	13:15 17:10 40:9	27:11
35:7,9,14,16,18	51:21,21	17:8 21:22,24	customer 16:5	details 12:6
35:25 36:14,16,18	Coffey 7:22,22 8:14	22:10 30:12 44:9	cut 7:9,20	determination
36:20 37:1,18,20	9:2 24:1,11,14	consideration	cuts 49:9	17:13
37:22 38:2,10,12	25:4,7	15:25 34:24 69:5		determinations
38:14 39:10,12,14	colleagues 8:24	considered 8:24,25	D	19:25
40:2,19,24 41:1,3	12:12 42:18	9:13 17:22 23:1,5	date 26:22	determined 30:6
42:1 43:18 44:13	combined 17:4	considering 68:13	day 67:3,4,6 71:15	50:7
44:21 45:3,20	21:17 38:18 39:3	construction 25:1	days 56:1 57:10	detriment 32:13
46:5,14 47:7,16	39:5	contains 71:6	58:10,12 64:12,25	developing 45:23
48:5 49:2,10,16	come 19:19 66:8	contemplated	66:20,25	developments 12:3
49:23 50:9,21	69:20	27:22	deal 12:22 16:9	dies 42:19
51:17 53:6,13,16	comes 23:15 57:1	contemplative	dealing 30:8	difference 28:10
53:25 55:2,17,19	coming 10:19 11:23	28:15	dealt 26:18 41:16	different 50:19,20
55:21,24 57:5,12	14:13 52:11 70:6	content 30:20	41:19	51:7
57:16,22 58:9,14	comment 18:6	contention 12:5	debate 26:25 27:1	difficulty 34:23
59:10,19 60:8,19	commercial 9:18	22:22,22 58:15	49:18	dimension 38:16,23
61:10,21 62:2,14	41:21	65:23	decades 13:10	39:1

dimensions 17:1
36:23 37:2,5,7,8
38:20,25
Dinni 1:15 19:8
33:5,21 34:5,17
35:5,14 36:16
37:18 38:10 39:10
40:24 55:17
Dinni's 22:22
direction 28:21
directly 12:8
disagreeing 20:4
disapproval 16:19
22:5,12,25 26:25
46:19
discount 19:1
discuss 62:17
discussion 18:17
22:14 26:12 30:17
43:2 46:10 56:5
56:13,16 58:5
61:18 62:1 63:17
63:19,22,24 64:4
67:9,10,13,18,19
67:25 69:5
disingenuous 63:7
dispute 65:7,11
distance 24:5
district 4:1,2 11:24
34:15 41:18 44:23
Districts 11:17
doing 7:14 14:9,25
15:2 16:4 23:20
27:19 36:23,24
65:15
door 23:24 24:2
dozens 45:15
dwelling 32:18 36:4
39:17 41:6,9
55:11

E

E 1:13,13 71:1,1
east 7:17 13:7
15:23,23 19:13
21:10,25 23:9,12
23:15,22 24:22
30:10 38:3
Easy 55:22

edge 8:6
effect 16:24,25 20:7
34:12 44:1,2
effected 5:22 25:13
either 24:10 30:9
45:5 51:23 55:3
56:23 64:7 67:20
elaborate 27:4
Elkin 3:21 5:5,8,9
7:3 9:15 10:9,13
11:5 12:1 18:2,19
40:6,14 50:10
emphasis 5:15 6:1
enclosing 25:2
ended 59:13
enforced 53:20
enforcement 16:20
enjoyment 5:25
enormous 68:12
enter 4:12
entire 25:7,9,14
54:22
entrance 25:18,20
environmental
34:13
Eric 3:21 5:9 18:19
Escalade 50:13
especially 62:6
essentially 8:15
25:23 28:14,20
40:7
evening 2:3 5:8
everybody 5:9 13:1
exact 48:12
exactly 68:2
exclude 19:12 21:6
excluded 21:3
Excuse 7:18
exempt 44:23 47:18
existence 29:22
existing 3:23 25:11
43:6
exists 17:10
expeditious 16:6
experience 5:23
59:20,23 60:3
explain 44:22
expressed 27:7
46:22 69:1

extended 24:2
extending 14:18
extension 60:1,9
extensions 3:23
exterior 5:21
extra 17:14

F

F 1:13 71:1
facade 25:14 30:9
fact 15:8 46:19
54:10
fair 59:17
fairness 47:1
familiar 9:15 10:3
12:1
family 3:24 4:1
5:17 32:17 36:4
39:16 41:6
far 30:22 46:14
favor 2:13,24 3:12
18:11 31:21 32:2
69:25
fear 62:12,15
feasible 33:16
fee 44:12 47:6
feel 14:21 19:17
42:18 69:6
feels 14:22 54:16
69:3
feet 6:5 7:24 8:6
13:8,9,10 16:23
20:25 21:8,10
32:21,24,25 36:5
36:7,8,9 37:9,10
37:12,13 38:4,5,6
39:2,4,5,7
fifth 56:4,9 58:4,16
59:2 62:5 66:1,13
68:6
figure 20:5
filling 52:23
final 44:14
find 11:15,21 69:9
fine 7:12 26:6
Firehouse 1:7 3:8
first 21:14 32:15
33:19
fit 8:1

five 30:24 56:1,19
56:21 57:10 61:4
fixed 22:1
FL2 4:23
floor 40:4,5,13
folks 2:4 18:25
38:17 56:3 70:6
follow 15:18
footage 6:3,6,19
footprint 16:24
force 47:3
foregoing 71:6
forever 58:24
forward 29:17
65:13 68:19
four 62:22
four-tenths 37:4,6
38:22,24
Frances 5:1
fresh 62:18,19,21
front 12:23,24 13:6
15:25 16:1,10
19:13 21:8,24
24:16,18 25:1,2,7
25:9,14,18,20
26:4 27:10 28:1
29:7,11,18 30:9
36:5,6,7 40:10
42:9 43:7 48:13
48:15,22 49:4
50:13 52:7 65:9
full 59:22 61:23
function 10:2
functionally 47:4
fund 43:22,23
50:23 51:5
funds 43:22
further 24:13 51:19
71:10
future 30:3,4 51:5
51:8

G

George 4:24
give 16:5 30:16
57:9 66:20
given 11:7
go 7:21 10:10,24
11:3 19:6 27:20

28:1,5 29:12,20
30:11 36:1 42:4,9
42:20,22 43:21
45:18 47:22 48:25
49:4 50:18,22
51:4 52:4 56:2
67:14,24
goal 14:7
goes 64:24 65:24
67:14
going 4:8,12 6:25
9:13 10:21 12:10
13:20 14:17 15:14
15:17 18:8 23:16
23:18 24:12,20,24
25:18,21 27:16,20
27:24 28:22 29:9
30:12 31:8,15,16
31:25 32:16 33:12
35:11,21 36:10
37:14 38:7 39:7
39:23 41:3 45:14
45:18 52:10 55:6
55:7,7,14 56:5,15
58:1 63:3 64:22
66:9 67:12,14,17
67:23,24 68:10
good 2:3 5:8 13:22
19:10 49:22 66:4
67:23
GORDON 1:15
2:12,16,23 3:2,14
7:18 12:14 13:5
13:17,22 14:10,14
15:4,11 16:12,16
16:22 17:24 18:13
19:9,21 20:6,18
20:23 21:5,16,24
22:8 23:7,11,22
24:21 25:22 26:3
26:6 27:8 29:25
31:24 32:4 33:6
33:22 34:6,18
35:6,15,22 36:17
36:25 37:19 38:11
39:11 40:25 43:3
43:10 44:5 49:24
50:16 52:19 53:18
54:9,23 55:18,23

58:23 59:6 62:25
63:5,10 65:10,18
67:11,22 68:21
70:1
grand 11:9
grant 9:25 29:17
54:17 57:21,23
64:22
granted 58:20,24
60:2,14 61:19
granting 32:14
35:2
Greenport 1:1,9
2:5 3:9 4:18,20
5:1 18:21 44:1
51:9 56:9
guess 10:20 12:22
17:4 19:23 21:18
guessing 67:11
guys 5:13 15:15
18:7 27:6 56:18

H

half 17:7,14 39:21
Hall 56:1
hallway 40:10
hand 17:7 71:15
handle 53:15
handled 54:12
Hangdog 4:25
happen 27:17 46:6
happened 54:3
happens 54:20
happily 6:14
happy 56:24
Harrison 4:23
hate 65:6
hear 11:2 13:25
68:3
hearing 3:19 18:9
56:12 57:6,7 58:2
68:5
hedges 8:4
height 6:10,18
held 56:12 71:8
hereunto 71:14
Hi 7:22
hinges 54:22
Historic 4:2

hit 68:25
HOEG 57:3,7,14
57:18,24 58:11,18
58:25 59:9,17,25
60:13 61:8,12,25
66:19 67:1 69:13
hold 58:15 60:10
64:10
holding 48:10
holly 25:12
home 5:11 7:10
10:15 50:10
homeowner 40:3
honest 42:17
honestly 53:7
house 15:22 16:2
24:18 25:1,8,10
25:11 43:7 53:21
Housing 12:16

I

Ian 56:7
idea 11:6 65:19
67:23
II 32:1
illustrating 54:10
impact 34:12
impacted 24:20
impacts 5:24
important 30:8
imposition 5:19
impossible 43:4
47:5 50:3
inclined 42:16
include 21:20 26:1
included 23:3
income 43:15,18
increased 20:25
28:6
increases 16:23
information 62:18
input 43:2
instance 12:23
integrity 5:18
interested 71:13
interior 25:6
interpret 26:17
involved 11:7
Isaac 4:23 7:22

Isaac-Rae 7:23
Israel 4:23
issue 10:5,8 41:20
54:11
issues 19:22
item 2:8,19 3:5,18
18:17 26:1,2 56:4
69:16,18,22
items 22:6,11

J

Jack 1:17 19:8 33:1
33:19 34:3,15
35:3,12 36:12
37:15 38:8 39:8
39:24 53:6 55:15
James 4:21
Jane 4:16
January 3:7
John 1:14 13:23
26:7 68:21
Jr 4:24
judicial 49:16 56:2
57:1 69:7
Judy 4:20

K

KAUFMAN 1:16
2:15 3:1,11,15
18:10,14 19:5
31:22 32:5 33:8
33:24 34:8,20
35:8,17 36:19
37:21 38:1,13
39:13 41:2 43:5
45:21 46:11,24
47:11,20 49:22
52:3,9,15,20
54:13 55:20 69:24
70:3
keep 61:11 62:4
kidding 8:11
kids 5:12
killing 48:7
kind 20:14 51:25
kindly 56:20
know 5:10 8:2,8
9:17 10:4,15 12:2
12:5 15:16 16:19
17:12 20:14 42:17

48:11,12 49:21
50:19 51:25 52:12
53:11 64:19 66:8
66:15 68:14
known 43:25

L

lack 45:6
land 17:11 19:22
landing 40:8
Lane 4:25
law 60:17,20 61:2,3
62:7 64:16 69:9
lawn 50:13
lawyer 16:16 27:9
lead 31:18 68:22
leave 59:13
legal 15:7,10,12
54:12
legislate 47:8 51:11
legislation 51:19
legitimize 28:19
legitimizing 15:2
29:21
let's 29:5 54:18
letter 3:25
lieu 9:12 11:18
42:11,23 43:20
44:12,15 45:9
46:1 48:17,20
51:4,14,24
life 5:24
limbo 54:21
limit 5:18
limited 5:13 61:25
limiting 6:2
line 6:13 8:7 23:16
25:12
listed 4:6
listen 67:9,13,17
little 8:2 15:19
23:13,24 30:2,16
43:16 50:8 63:6
livable 17:10,20,23
39:19
living 5:20
locate 11:25
located 3:25 4:2
18:20 56:8

long 10:16 30:7
look 25:9 27:24
28:16 29:16 41:13
46:24 51:12 54:13
looking 51:13 54:5
Lorene 4:17
lost 12:11 38:16
65:21
lot 5:13 6:3,6,23
7:16 16:25 20:23
23:16 32:16,18,20
32:22,23 37:4
38:22 48:6,7

M

mailings 4:9,11,16
making 17:9 19:16
20:21 50:12,25
manageable 11:10
mandate 10:2
48:16 49:12
Map 4:7 18:22
56:10
margins 7:12
marriage 71:12
mass 19:3 30:19
matter 71:13
matters 13:18
maximum 16:25
20:23 32:18 39:20
mean 10:13 13:12
17:12 29:1 47:21
49:19 50:14,25
54:3 55:3,3 63:11
meaningful 27:13
27:15,16
means 69:7
mechanism 48:3
52:7,13
meet 6:10 9:18
10:17
meeting 2:1,6,10,22
3:7 57:9 58:8,20
60:7 61:14 66:21
66:25 67:3 70:8
meets 55:4
member 1:15,16,17
1:25 2:7 56:24
57:11 58:4,16

59:2,13 60:10,11
61:16,19,22 62:5
63:20,20,24 64:24
66:1,14,22 68:7
members 22:12
48:11 56:16 60:24
61:4
mention 66:14,16
68:7
mentioned 53:22
Merry 70:7
method 33:16
middle 15:16
minds 62:18,20,21
minimal 8:15 24:23
minimum 15:22
36:8 37:12 38:5
minus 2:7
minute 12:10
minutes 2:9,20
57:8 63:23,25
mistake 59:11,12
68:12,16,17,18
69:12
moment 11:25 44:3
money 11:2,6 43:20
50:22
month 55:1 56:13
58:24 59:7 61:23
62:1 63:21
month's 66:21
months 5:12 62:22
62:23
motion 2:8,19 3:5
18:9,18 19:12
20:7,11,15,22
21:2,21 22:9,13
25:23 26:2 31:11
31:12,14,17 32:1
35:11 36:10 37:14
38:7 39:7,23
40:21 49:20 55:8
55:14 56:6 60:22
69:22
motivation 43:14
move 5:22 20:5,8
21:5 29:17
moved 2:11,22 3:10
5:11 7:5 22:13

31:19 32:2 36:11
37:15 69:23
Moving 37:24

N

narrative 56:22,25
62:21 65:25
nearby 32:13
necessarily 35:2
need 6:25 13:18
20:12 29:3,6
53:24 59:5 61:4
62:16 64:18
needed 13:14
needs 5:16 16:8
27:19
negative 5:23
negotiated 12:5
neighbor's 62:19
neighborhood
32:12 34:14 59:15
neighboring 5:19
7:16
never 45:12 57:22
59:23 68:13
new 1:2 3:9 4:17
18:21 25:17 29:12
29:19 56:9 60:11
61:1,3 62:6 71:4
nine 7:24 8:5
NJ 4:22
nonconforming
12:19,25 13:2,4
13:16,19 14:4
15:5,9 17:14 20:1
22:2 27:12,18,25
29:7 45:13
nonconformities
15:3
nonconformity
14:5 24:4,14 28:6
29:22 30:6 43:6
nonexisting 27:5
Notary 71:3
notice 16:18 22:5
22:11,24 26:24
46:18
noticed 4:14
November 2:9

58:21
number 2:8,19 3:5
3:18 18:17,22
21:9,9 23:3 32:10
33:11,12,13 34:2
36:24 37:25 39:17
39:20 56:4,11
69:16,18,22
NY 1:9 4:17,18,20
4:21,24 5:1

O

O 1:13
oath 69:2
obligated 46:7,8
60:21 62:8
obvious 60:24
obviously 5:20 8:2
49:20 63:11
occupies 40:9
officers 16:21
oh 16:14 38:18
okay 12:9 13:23
17:24 18:8 21:1
21:15 22:7,15
24:21 26:3,7
40:15 67:1
once 31:2
one-half 39:18
ones 20:12,13,21
54:15
open 7:14 10:23
54:1,2 56:15
59:13 62:5
opinion 9:8 15:14
26:10 27:6 46:22
49:21 69:1,12
opinions 16:12
opportunity 7:9
9:21 10:17 16:6
42:3,8,20 61:15
69:11
opposed 6:18
option 11:13 62:10
order 2:1
outcome 71:13
overall 47:2
owner 29:12

P

p.m 1:12 2:2 3:8
70:9
page 21:14 57:24
57:25,25
PALLAS 1:20
11:14,21 14:2,11
22:3 28:13 29:14
40:18 41:25 48:2
51:15 52:12
Pandora's 54:1,2
park 51:10
parking 7:1,6,25
8:13,16 9:3,5,6,13
9:19,24 10:4,7,22
20:16 30:16,17
31:10 41:7,8,9,10
41:12 42:11,11,24
43:9,11,13,20,23
43:25 44:12,15
45:5,6,7,12,17,25
46:3,12 47:4,19
48:17,21 50:18
51:2,9,22 53:3,19
53:22,23 54:7
55:9,10,12,13
part 14:8 24:24
29:4 50:23 61:17
particular 15:20
29:9 44:2,3 46:15
54:25
parties 71:11
path 52:21
Paul 1:20 12:11
pay 11:2 43:13,21
47:6,19 50:18
payment 9:12
10:20 11:18 42:10
42:23 43:19 44:15
45:9 46:1 48:17
48:20 51:3,14,24
peasy 55:22
perfectly 14:16
permit 27:20,23
40:20
permitted 39:17,20
person 30:2 35:23
personally 16:3
26:10 42:21 46:21
68:10,11

pertains 41:17
physical 34:13
physically 43:4
piece 14:18
pin 12:10 31:16
place 12:11 38:17
43:1
places 43:11
plan 36:5 37:9 38:3
39:18 40:4 41:7
41:22,24 42:2
44:9 49:1,5,8,15
54:19 55:9
Planning 9:14,25
10:1,11 26:20
41:22 42:4,10,20
42:22 43:12 44:8
44:11,14,17,18,20
45:9,19 47:22,25
48:4,15,23,25
49:4,7,11 51:3
52:8,24 53:5
54:18,20 55:4
plans 39:4
plate 10:12
play 68:18
plus 50:23
point 5:15 6:1 7:12
10:19 12:4,7 68:1
pointed 45:11
points 12:7
policy 14:2 15:1,15
15:17 16:18 19:16
19:21,22,24 27:1
27:2,3 28:12
46:16,17
poll 63:1,3,10 65:19
66:4 67:19
porch 8:7 25:3
possible 16:7 18:18
52:5 56:6
postponed 56:13
power 16:20
precision 19:10
preclude 35:2 58:5
preexisting 12:18
13:4,16,19 14:4
15:9 27:18 28:16
28:19 45:13

prefer 10:24
prepared 52:2
present 58:4 59:3
preserve 5:17
prevails 60:4
prevent 52:22
 63:17,18
prevents 64:9
previous 22:2
previously 6:8
 26:18
principal 37:3
 38:21
prior 60:7
Prius 50:12
privileged 63:22
probably 11:9 50:1
problem 8:12 27:5
 30:18 41:15,19
 43:25 51:10 55:25
 63:14
procedure 29:13
proceeding 62:4
proceedings 71:8
process 19:23 29:10
 48:12
produced 32:11
progress 26:14,16
 64:10
progressed 51:6
 67:21
project 54:22
properly 69:20
properties 5:19,22
 5:25 9:17,18
 32:13 45:15,16
 51:7
property 3:25 4:3
 8:7 13:4,13 18:20
 28:7,8 29:5 43:9
 45:12,23 46:1
 56:8
propose 3:22 33:3
 66:20
proposed 32:20,22
 34:11 39:4
proposing 50:17
prospect 43:15,19
 46:2

provide 45:24 51:1
 51:22
provided 41:8
 55:10
providing 45:25
provision 9:12,16
public 3:19 18:5,9
 48:8 56:11,24
 57:6,7 58:2 65:9
 71:4
purchase 52:25
purchaser 29:2
purposes 31:18
pursue 8:21 33:17
 41:15
put 7:11 9:5 12:10
 31:16 40:17 43:8
 43:11 50:12
puts 16:10
putting 46:3

Q

quality 5:24
quarters 5:21
question 6:7,20 9:3
 9:7 12:13,15 17:5
 27:8 29:15,24
 32:9 33:2 40:1
 46:16,17 49:24
 60:20 63:16
questions 6:14 8:19
 30:24 32:8 36:2
 56:20,21
quite 7:6
quorum 59:23 61:5

R

R 1:13 71:1
R-2 4:1
rationale 14:8
read 4:10 47:8
 64:17,19
reading 51:20
realities 10:14
really 5:14,23 6:1
 7:11 10:16,23
 12:15,21 16:8
 29:14 50:11,14
 52:21 53:25 54:2
 54:5

rear 24:2
REARDON 2:14
 2:25 3:13 15:19
 18:12 21:13 22:14
 22:16 23:2,6,9,20
 23:23 24:8,12,17
 24:22 25:25 26:4
 29:1 31:13,20,23
 32:3 33:2,20 34:4
 34:16 35:4,13,24
 36:13,15 37:16
 38:9 39:9,25 40:3
 40:11,15,22 52:22
 53:11,15 55:16
 67:2 70:2
REARDON- 1:17
reason 14:1 48:22
 65:15 66:15 68:8
reasonable 46:2
 62:3,24
recall 11:23
reconfigure 5:16
record 4:12 28:20
reference 11:22
 12:7
refers 21:18
regarding 3:19
regardless 65:24
regular 1:5 2:6
rejected 20:7
related 71:10
relatively 53:9
relevant 34:25
relief 10:5 22:23
 28:3 45:7
remains 18:22
 24:15 25:8,15
remember 23:12
 25:20 54:4
removal 8:3
remove 22:17
renegotiated 30:5
renovation 15:21
 24:20 29:3
renovations 3:22
 11:8
repeating 61:11,13
reported 71:9
Reporter 71:3

request 14:15 21:7
 39:16 42:10,23
 45:8 50:5 51:2
 57:19 59:4 60:1
 61:8
requested 6:24
 34:2 58:19
requests 12:17
 22:23
require 8:2 27:23
 32:24 36:9 37:12
 38:6 39:6,22
 41:11 43:4 45:4
 49:25 54:7 55:12
required 8:12 9:24
 14:3,12 17:19
 36:7 37:11 38:4
 45:24
requirement 53:20
requirements 6:11
 9:19
requires 4:3 28:15
 28:17 41:10 55:11
requiring 69:10
residence 3:24
resident 52:23 53:1
residential 9:16
 11:17,24 41:18
 44:23 45:16
residents 9:22
respect 17:6
respond 56:20
rest 14:19 54:15
result 23:17
review 49:8,8 51:16
 51:18 56:2 57:1
 61:16 63:24 65:4
 69:7
revised 25:22,23
revisit 19:25
revitalize 50:11
Ridgewood 4:22
right 8:5,14 10:9
 13:5 22:16 23:6
 25:24 28:24 35:25
 41:22 46:13 49:23
 51:16,18,20 54:15
 55:5 57:4,18,24
 58:7 61:12 64:14

64:21 68:25
rigid 47:13
rigor 54:12
Riverhead 4:24
road 29:2
Rob 49:17 62:25
ROBERT 1:21
Rode 4:16
roof 6:13,18
room 7:19,20 50:7
rooms 40:4
routine 53:9
rule 16:7 48:17
ruling 13:18

S

SALADINO 1:14
 2:3,13,17,24 3:3
 3:12,16 5:3,6 6:16
 8:10,17 9:8,23
 10:10 11:1,11,19
 12:9 13:24 14:23
 15:6,13 16:9,14
 16:17 17:15,25
 18:4,11,15 19:8
 19:15 20:3,10,20
 21:1,11,15,21
 22:7,9,15,21 23:4
 24:25 25:5,16
 26:8 28:4,11
 29:23 30:13 31:5
 31:15,21,25 32:6
 33:5,7,9,21,23,25
 34:5,7,9,17,19,21
 35:5,7,9,14,16,18
 35:25 36:14,16,18
 36:20 37:1,18,20
 37:22 38:2,10,12
 38:14 39:10,12,14
 40:2,19,24 41:1,3
 42:1 43:18 44:13
 44:21 45:3,20
 46:5,14 47:7,16
 48:5 49:2,10,16
 49:23 50:9,21
 51:17 53:6,13,16
 53:25 55:2,17,19
 55:21,24 57:5,12
 57:16,22 58:9,14

59:10,19 60:8,19 61:10,21 62:2,14 63:8,15 64:5,20 65:6,12,22 66:6 66:11,24 67:5,16 68:1,24 69:15,25 70:4 Sarkis 4:24 saw 5:13 23:14 50:9 saying 46:6 47:21 48:19 60:9 68:19 says 36:1 45:3 48:16 51:21 57:15 57:17,18,24 60:21 61:3 62:7 schedule 3:6 scheme 11:9 second 2:12,23 3:11 18:10 31:20 36:3 37:16 69:24 seconded 31:12,13 SECRETARY 1:22 see 42:22 46:4 47:2 47:23 50:15 52:6 52:15 56:2 64:8 66:21 seeking 52:25 self-created 34:24 send 43:12 44:10 44:18 47:5 52:16 54:17 sensible 14:17 September 2:20 SEQRA 31:19 SESSION 1:5 set 43:8 71:14 setback 12:23 13:6 13:8 14:16 17:2,5 19:13,14 20:19 21:8,10,18,25 22:1 23:8,12 24:9 26:5 27:10 28:1 29:8,11,18 36:5,6 36:7 37:10,11 38:3,4,18 39:3,5 setbacks 30:10 Seth 1:16 33:7,23 34:7,19 35:7,16	36:18 37:20 38:12 39:12 41:1 45:11 55:19 she'll 4:11 shot 69:21 show 29:5 32:19,21 39:4 shows 36:6 37:10 38:3 39:18 41:7 55:9 63:21 64:24 side 7:10,19 14:18 15:23,23 17:4 19:13 21:19,25 23:15,21,22 24:3 24:10,22 25:15,19 25:21 30:10 37:2 37:5,8,11 38:4,18 38:20,23,25 39:1 sides 15:21 24:8,19 37:7 sidewalk 7:21 sign 44:11 silly 14:21 similar 7:16 simply 45:23 53:4 single 3:23 9:6 sit 67:20 site 23:14 41:21,23 42:2 44:9 49:1,5,8 49:14 situated 6:22 situation 6:12 10:3 10:22 46:25 47:2 situations 12:19 six 62:22 size 15:22 skipping 33:11 35:20 small 40:7 smaller 8:8,11 Solomon 1:25 4:17 solution 27:4 Somers 4:25 sorry 23:11 38:17 43:5 sort 63:1,10,12 sought 33:15 Sounds 49:22 South 1:8 3:9	space 7:15,24 8:1,6 8:9 9:5,6 17:11,20 17:23 39:20 50:4 50:6 53:19,23 spaces 8:13,16 41:11,12 42:12,24 50:1,2,18 51:2 53:23 54:8 55:12 55:14 speak 57:4 specific 60:18 specifically 9:2 58:1 specifications 32:19,21 specificity 19:11 specifies 14:6 spoke 46:16 spot 7:11 10:18 spots 43:9 53:1 sprinkler 40:17 square 6:2,5,19 32:20,24,25 squaring 23:24 standard 7:25 start 38:19 56:17 state 1:2 11:7 61:2 61:3 62:7 71:4 stated 28:18 statement 19:16 Station 1:7 3:8 stays 24:4 26:2 stenographer 4:10 Stepnoski 56:8 stories 17:7 39:17 39:21 story 6:7,8 17:9,14 17:17,21,22 20:17 39:22 straw 63:1,10 65:19 66:4 67:18 street 3:9 4:16,21 6:25 7:6 31:10 41:7,8,9,10,12 45:5,6,7,17 46:3 46:12 47:4 51:1 51:22 53:2,19 55:9,10,11,13 Streets 1:8	strongly 54:16 structure 27:18 stuff 16:4 40:20 subdivision 49:7,15 65:4 subject 10:25 substantial 3:22 34:3 subtract 47:9 succeeding 29:2 sufficient 6:9 51:8 Suffolk 1:2 4:6 18:22 56:10 suggest 63:1 suggested 30:14 suggesting 63:9 suggestion 66:5 67:7 summer 7:7 Sunset 4:22 suppose 65:20 supposed 14:7 Supreme 67:12 sure 5:8 11:8 19:20 19:20 21:16 26:8 33:12 40:2 45:14 48:3 59:7 60:4 63:8 64:5,6 survey 25:9 27:24 swore 69:2	ten 29:11 test 8:20 30:23,25 32:9 33:14 41:14 56:19 testimony 61:16 62:19 thank 18:1,2 22:8 24:17 40:15 56:3 70:6 thing 25:10 54:25 things 11:9 15:24 16:7 49:17 think 9:5 11:16 13:17 14:6 16:3 17:18 19:6,9,23 20:12 21:3 22:21 26:11,19 27:1,3 27:15,16 28:9,23 29:20,25 30:7,18 33:10 35:22 40:22 41:13 42:5,5,6 43:3,5 46:24 47:14 48:14 52:20 53:7,18 59:10,12 59:14 62:3,11,23 62:24 64:9 65:12 65:14,15,17 66:1 66:4,17 67:13 68:10,11,15,21,24 69:1,2 thinking 8:23 18:24 20:21 60:18 62:10 third 3:9 6:6,8 17:9 17:17,21 20:16 36:22 39:22 40:5 40:13 THOMAS 71:3,18 thought 7:1 14:24 14:24 49:10 53:8 57:5 61:22 63:5 67:5,6 three 15:21 24:19 Thursday 55:5 tight 5:20 7:15,24 time 10:16 19:1,6 19:10 27:17 30:21 31:7,8 44:4 48:6,7 52:4 53:2 57:20 57:21,23 59:5
T				
T 71:1,1				
take 6:14 10:12 18:25 19:2 51:12 54:21 56:14 60:23 68:25 69:4				
taken 15:24				
takes 67:18				
talk 54:6				
talked 7:3,8 9:4				
talking 46:12 64:2 64:3				
tangible 10:22				
tape 63:23,25				
Tax 4:7 18:22 56:10				
tell 5:7 11:6 55:5				
telling 9:20				

64:14,22
tiny 23:13
today 5:14 6:8
told 25:17
tonight 2:6 67:21
total 6:4 36:22 37:1
 37:7 38:16,20,24
touches 15:21
touching 16:1
town 12:3
transcript 58:8,21
transcription 71:7
transcripts 57:14
tree 25:13
trimming 8:3
trip 55:3
true 47:21 71:7
trust 6:17
try 11:25 14:5,7
 28:18 68:16
trying 11:14 20:4
two 4:1 8:13,16
 10:18 17:6 21:9
 21:20,23 22:11,23
 40:6,11 41:10,12
 42:11,24 43:8,11
 43:13 50:1,2,18
 53:19,22 54:7
 55:11,13 68:25
Type 32:1

U

uncomfortable
 43:17
understand 6:21,21
 7:15 9:7 14:19
 22:12 30:1 50:2
 61:10 62:9,14,15
 62:16
undesirable 32:10
 33:4
unfair 59:14,15,20
unit 41:10 55:11
unnecessary 14:20
 14:22 20:22
unreasonable 62:4
 62:24 65:13,14
 66:2
untouched 24:19

25:8
update 27:12
upstairs 40:12
use 17:12 19:22
uses 20:2 49:17
usual 59:21
Usually 11:1
usurp 16:20

V

variance 8:22 9:3
 10:6 13:7 14:3,15
 17:9,19 20:12
 21:7 27:9,23
 28:15,18 29:4,6
 29:10,18 30:12
 31:9 32:15,15,25
 33:18,19 34:3
 35:3,12 36:3,4,9
 36:11,22 37:13,15
 38:6,8 39:6,8,22
 39:24 41:5,11
 42:14 46:9 50:4
 51:24 55:13,15
variances 3:20 4:3
 4:4,5 6:23,24
 12:18 13:14 14:12
 18:18 19:18 21:7
 26:15,16 31:1
 34:11 46:17 56:6
viable 52:21
video 63:23,25
Village 1:1,20 2:4
 9:11 10:4 11:12
 26:15 27:2 42:7
 43:16,19,23 45:15
 50:23 51:10,12
 56:1 61:2,3
virtually 47:5
visit 23:14
vote 2:17 3:3,16
 17:3 18:15 19:1,3
 20:11 21:6 22:18
 26:24 27:6,7
 30:18 32:6,16
 33:25 34:9,21
 35:9,18 36:20
 37:22 38:14 39:14
 41:4 42:16 46:23

46:23 49:19,20,25
 50:3 52:2,16
 54:13,22 55:6,7
 55:21 58:3 59:2
 59:22,24 62:12
 64:6,8 65:17,20
 65:24 66:9,10,10
 66:15 67:24 68:8
 68:20 69:6 70:4
voted 27:9 57:21,23
 58:22
votes 19:12 42:12
 42:13,15,19 66:8
voting 14:21 20:16
 46:15 64:2,2,9
 69:4

W

W 4:16
wait 38:18 64:23
 66:1
walls 5:21
Walton 4:25
want 10:6 11:2,3
 13:24 18:25 19:2
 20:11,15 26:9,17
 27:6 31:6,6 45:24
 49:18 50:11,14
 54:1,2,5 56:2,18
 64:17 68:6
wanted 63:3
wants 48:18,19
 50:10 64:23
wasn't 9:15 17:20
 17:23 46:9,11,20
 60:18 61:25 65:19
waterfront 41:20
way 6:13 8:15
 10:22 20:5 27:13
 43:7,8,11 47:14
 47:17 54:14 56:21
 63:21 64:16 67:14
 67:15 71:12
we'll 2:6 49:19,20
 66:21 69:12
we're 4:7 5:20 6:2,3
 6:4 7:11,14 10:3
 12:9 15:14,16,17
 17:8 30:8 32:16

33:11,11,13,18
 35:20,21 36:24
 48:6,6 50:25
 53:11 54:21 60:21
 62:7 63:11 64:21
 65:15 68:8
we've 23:13 28:12
 28:21 41:16,19
 50:6 68:13
weigh 61:17
went 59:1
west 7:10,19 14:16
 14:18 17:1,2
 20:18 21:25 23:8
 24:10 25:15 30:10
 37:10
WHEREOF 71:14
white 52:1
width 37:5 38:22
wife 5:11
Wilday 4:21
willing 27:5 30:21
 43:1 53:13,16
 59:11 60:22
window 25:12
wish 53:3
withdraw 25:24
 69:13
withdraws 69:16
WITNESS 71:14
wondering 12:20
 30:4
word 20:14
words 49:3
work 9:9 13:22
 23:18,21 24:15
 25:6 27:19,22
 28:15,17 54:25
worked 55:1
working 53:11
worse 24:16
wouldn't 9:9 14:12
 17:21 21:19 28:4
 29:19 30:24 41:23
 48:21 63:13 65:10
written 64:16
wrong 67:7

X

x 1:3,6

Y

yard 12:23,24 13:6
 13:8 14:16 17:2,5
 19:13,14 20:18
 21:8,10,18,25,25
 23:8,10,12 26:4
 27:10 28:1 29:8
 29:11,18 30:10
 36:5,6,7 37:5,8,10
 37:11 38:3,4,18
 38:23 39:1,3 43:7
yards 21:19 37:2
 38:20,25
yeah 7:3 10:13
 16:17 17:24 19:9
 36:25 43:10
years 29:11 54:6
York 1:2 3:10 4:17
 18:21 56:9 61:2,3
 62:7 71:4

Z

Zoning 1:4,21 2:5
 2:10,21 3:6 10:7
 21:4,22 22:10
 23:1 26:23 28:2
 31:17 42:12,13,15
 42:18,25 45:1,4
 46:6,25 48:11,14
 59:21 64:15,20
 65:3,8 68:14
 69:18

0

06071 4:25
07450 4:22

1

1 2:8 32:10
1,292 32:23
1,540 32:20,22
1.5 13:8,9,9 21:10
 38:3
10 37:9,12 38:5
 39:2
1001-4-8-7 56:11
1001-5-2-15 4:7
 18:23

10011 4:17	4.3 37:13			
11217 4:21				
11901 4:24	<hr/> 5 <hr/>			
11944 1:9 3:10 4:18	5 18:17			
4:20 5:2 18:21	5.7 33:1 37:10			
56:10	5.9 39:6			
12 54:6	50 57:25			
13.1 39:4	51 57:25			
135 4:18	52 57:25			
14.7 36:6	54 4:24			
148 3:18 18:20 44:2	<hr/> 6 <hr/>			
15 5:12	6 56:4 69:17			
15.3 21:8 36:9	6:00 1:12 3:8			
150-30 49:13	6:01 2:2			
16 2:9	61st 67:3			
161 4:19	62 6:5 16:23 20:25			
171 5:1	57:10,17 58:10,12			
18 3:7	64:12,24 66:20,25			
<hr/> 2 <hr/>	62nd 67:3			
2 2:19 22:6 26:1,2	65th 67:6			
33:11,12,14 39:18	<hr/> 7 <hr/>			
39:21 40:9	7 69:18			
2-2 62:12 65:17,19	7.2 39:5			
66:10,14	7:17 70:8			
20 51:2 53:1	700 61:2			
2021 1:11 2:10,21	<hr/> 8 <hr/>			
71:8,15	8 69:22			
2022 3:7	8.5 38:6			
20th 4:16	82 4:20			
21 1:11 2:21 71:8	889 4:23			
219 4:22				
220 56:4,9				
221 4:16				
248 32:25				
28th 71:15				
2E 4:17				
<hr/> 3 <hr/>				
3 3:5 34:2 36:24				
3-1 66:9				
30 36:5,8				
30% 32:19				
35.7 32:22				
3rd 1:8				
<hr/> 4 <hr/>				
4 3:18 22:6 23:3				
37:25				
4-0 66:10				