

1 VILLAGE OF GREENPORT
 2 COUNTY OF SUFFOLK STATE OF NEW YORK
 3 -----X
 4 ZONING BOARD OF APPEALS
 5 REGULAR SESSION
 6 -----X

7 Third Street Fire Station
 8 Greenport, New York
 9
 10 January 21, 2020
 11 6:00 p.m.
 12

13 B E F O R E:
 14 JOHN SALADINO - CHAIRMAN
 15 DAVID CORWIN - MEMBER
 16 JACK REARDON- MEMBER
 17 ARTHUR TASKER - MEMBER
 18
 19 ROBERT CONNOLLY - ZONING BOARD ATTORNEY
 20 PAUL PALLAS - VILLAGE ADMINISTRATOR
 21 AMANDA AURICHIO - CLERK TO THE BOARD
 22
 23
 24
 25

1 (The meeting was called to order at 6:02 p.m.)

2 CHAIRMAN SALADINO: Folks, this is the
3 Village of Greenport Zoning Board of Appeals
4 regular meeting.

5 Item No. 1 is a motion to accept the
6 minutes of the December 17th, 2019 Zoning Board
7 of Appeals meeting. So moved.

8 MEMBER TASKER: Second.

9 CHAIRMAN SALADINO: All in favor?

10 MEMBER CORWIN: Aye.

11 MEMBER REARDON: Aye.

12 MEMBER TASKER: Aye.

13 CHAIRMAN SALADINO: And I'll vote aye.

14 Item No. 2 is a motion to approve the
15 minutes of the November 19th, 2019 Zoning Board
16 of Appeals meeting. So moved.

17 MEMBER TASKER: Second.

18 CHAIRMAN SALADINO: All in favor?

19 MEMBER REARDON: Aye.

20 CHAIRMAN SALADINO: I'll vote aye. Any
21 abstentions?

22 MR. CORWIN: Abstain.

23 CHAIRMAN SALADINO: Did we have three ayes?

24 Do we have -- did you vote aye?

25 MEMBER TASKER: Yes.

1 CHAIRMAN SALADINO: Three ayes and one
2 abstention.

3 Item No. 3 is a motion to schedule the next
4 Zoning Board of Appeals meeting for February
5 18th, 2020, at 6 p.m., at Station One of the
6 Greenport Fire Department. So moved.

7 MEMBER TASKER: Second.

8 CHAIRMAN SALADINO: All in favor?

9 MEMBER CORWIN: Aye.

10 MEMBER REARDON: Aye.

11 MEMBER TASKER: Aye.

12 CHAIRMAN SALADINO: And I'll vote aye.

13 Item No. 4 is 415 Kaplan Avenue. It's a
14 Public Hearing regarding the application of
15 415 Kaplan Avenue Incorporated for the property
16 located at -- located at 415 Kaplan Ave,
17 Greenport, New York 11944.

18 The applicant has asked for an
19 interpretation of Section 150-13(E) of the
20 Greenport Village Code to determine if the
21 proposed improvements require a use variance.
22 The property is located in the R-2 (One and
23 Two-Family) District. The property is not
24 located in the Historic District. The Suffolk
25 County Tax Map Number is 1001-4.-1-6.

1 And for the public that's interested, the
2 notice is attached, I believe.

3 MR. OLINKIEWICZ: That's correct.

4 CHAIRMAN SALADINO: Public notice?

5 ADMINISTRATOR PALLAS: Attached to the
6 agenda.

7 CHAIRMAN SALADINO: Is attached to the
8 agenda.

9 ADMINISTRATOR PALLAS: Last page.

10 CHAIRMAN SALADINO: And the public notice
11 is attached to the agenda.

12 We're going to ask the Clerk if this was --
13 this was noticed in the newspaper. And there are
14 no mailings, right, for an interpretation?

15 ADMINISTRATOR PALLAS: Correct.

16 CHAIRMAN SALADINO: Am I getting that
17 right, there are no mailings for interpretation?

18 Before Jimmy -- before the applicant gets
19 up, I'm just going to for the public, so -- and
20 this, just for the public, this is only on the
21 code, only on how the code is worded. It's not
22 about the -- it's not about the application, it's
23 not about the building, it's not -- it's just
24 about how the code is worded. We're going to
25 decide if the Code Enforcement Officer correctly

1 interpreted the code.

2 So I'm going to read the -- just a couple
3 of things from New York State, from our code.
4 "The ZBAs may not issue advisory opinions, but,
5 rather, may only be asked to interpret the law
6 after an administrative official has made a
7 decision." That's how we got here. "When
8 hearing appeals or requests for interpretations,
9 the ZBA must review the local zoning law and
10 apply that law to the case in hand. Each appeal
11 must be viewed on a case-by-case basis in light
12 of local provisions. It's important to note that
13 a ZBA interpretation of its own zoning regulation
14 is entitled to great deference and will not be
15 overturned by a court, unless unreasonable or
16 irrational."

17 We're going to let the applicant make his
18 case a little bit, and then --

19 MR. OLINKIEWICZ: James Olinkiewicz,
20 415 Kaplan Avenue. I was actually -- I was
21 asking for an interpretation, because I think
22 that the Building Department made a wrong
23 decision on asking for a use variance in that it
24 was an area variance. So I took it upon myself
25 to print the definitions of area variance and use

1 variance from New York State that's represented
2 in the General City Law, Town Law and Village
3 Law. So --

4 MEMBER REARDON: Thank you.

5 MR. OLINKIEWICZ: You're welcome.

6 MEMBER TASKER: Thank you.

7 MR. OLINKIEWICZ: Would anybody care for one?

8 So the definition, based on New York State,
9 for an area variance is, "The authorization by
10 the Zoning Board of Appeals for the use of land
11 in a manner which is not allowed by the
12 dimensional or physical requirements of the
13 application." So, because the property is
14 53 feet wide, it doesn't meet the dimensional
15 requirements for the two-family. So based on
16 that dimensional, it reads right there, my
17 thought is it should be an area variance, because
18 if you turn down the area variance for the
19 property, then it would then go and be rolled to
20 me then applying for a use variance.

21 It's under my thoughts that the area
22 variance has to come first. If you deny the
23 application based off of the area variance, then
24 it goes to use variance, which is, "The
25 authorization of Zoning Board of Appeals for the

1 use of land for the purpose which is otherwise
2 not allowed or is prohibited by the applicable
3 zoning regulations."

4 CHAIRMAN SALADINO: The Notice -- can I
5 talk?

6 MR. OLINKIEWICZ: Sure.

7 CHAIRMAN SALADINO: The Notice of
8 Disapproval that we have in front of us is for a
9 use variance

10 MR. OLINKIEWICZ: Correct. I had
11 originally applied for an area variance. It was
12 sent back to me and I was told that I had to go
13 for a use variance. I then was told that I had
14 to argue my case here, that it's supposed to be
15 an area variance, thus, I asked for the
16 interpretation. They have -- the Village has
17 both an application for an area variance and an
18 application for the use variance. So it -- so
19 that's why I --

20 CHAIRMAN SALADINO: I just misunderstood.
21 I thought you said you were progressing this
22 interpretation for an area variance. This Board
23 tonight is going to --

24 MR. OLINKIEWICZ: I'm asking the Board to
25 interpret that this is not a use variance and

1 that this is an area variance. So that's the
2 interpretation that I'm asking for. And I'm not
3 sure if everybody understood that from the last
4 meeting when I was up here, so I brought up the
5 definition of the area variance. That was the
6 interpretation I was asking for, not about the
7 code, per se, because the Village Code is the
8 Village Code, but that the actual -- I should
9 have been put in front of an area variance first.
10 If denied for the area variance, then I would
11 have to apply for the use variance.

12 MEMBER TASKER: Well, since we're talking
13 about procedural issues, I'm looking at your
14 application to the ZBA for a use variance. I'm
15 not sure of the date, but we know which one it
16 is, and the type of -- at the bottom, it
17 indicates the type of appeal an appeal is made
18 for, and what is checked off is an interpretation
19 of the Village Code, Article 5, Section
20 150-13(E), which is the section that deals with
21 existing small lots.

22 MR. OLINKIEWICZ: Correct.

23 MEMBER TASKER: So your --

24 MR. OLINKIEWICZ: The --

25 MEMBER TASKER: Excuse me. Your

1 application is for an interpretation of what does
2 the -- how does the existing small lots provision
3 apply. It's not -- your application does not
4 look for a determination of is this an area
5 variance or a use variance.

6 MR. OLINKIEWICZ: Arthur, we applied three
7 different times to the Village on this. We
8 handed the first application in for an area
9 variance. It was then kicked back to us and said
10 no, that it had to be a use variance. So we
11 reapplied as a use variance, but we labeled that
12 we were objecting and that we thought it should
13 have been an area variance. It was kicked back
14 to us again, and we filled out a third
15 application that went in to stipulate this,
16 because this is what the Village Administration
17 had told me I had to apply for to get here in
18 front before I could go and find out if I'm
19 actually applying for an area variance. So I can
20 bring you three applications that show I applied
21 for everything across the board.

22 MEMBER TASKER: I know what you've been put
23 through and I appreciate that, but we could only
24 look at the application that is in front of us,
25 and that is for an interpretation of the small

1 lot provision of 150-13(E).

2 MR. OLINKIEWICZ: So my --

3 MEMBER TASKER: Mr. Chairman, I --

4 MR. OLINKIEWICZ: My question back on that
5 is that if I keep asking and I get sent down the
6 wrong road, then I have to start back and go back
7 and start all over again for a whole new
8 interpretation and a whole new public hearing? I
9 mean, this is not my fault that I got sent to
10 three different applications.

11 CHAIRMAN SALADINO: No, Jimmy. No.

12 MEMBER TASKER: No.

13 CHAIRMAN SALADINO: No. What's going to
14 happen tonight is this Board is going to hear
15 what you have to say, they're going to listen to
16 whatever the public has to say. I assume we'll
17 close the public hearing. We'll read -- I could
18 do it now, or, if you want to wait, we'll read
19 the portion of the code that the Building
20 Department is applying to your application.
21 We'll debate it, and we'll either affirm it or
22 deny it. If we affirm it, you'll have to
23 progress this application as a use variance. If
24 we deny it, it will go as an area variance, or
25 you'll apply as an area variance. But you knew,

1 you knew last month when we talked about it, this
2 interpretation has the weight of a public
3 hearing.

4 MR. OLINKIEWICZ: Correct, correct.

5 CHAIRMAN SALADINO: Whatever was -- and I
6 believe I told you, whatever is decided here
7 tonight will dictate what happens next month.

8 MR. OLINKIEWICZ: I understand that. But
9 now if I'm denied on the use variance for the
10 small lot --

11 CHAIRMAN SALADINO: No, the denial -- if we
12 issue a denial tonight, it will be a denial of
13 the CEO, the Code Enforcement Officer's
14 interpretation of the code. If we affirm it, if
15 we vote yes, if we affirm it, it will say we're
16 agreeing with the Code Enforcement or the
17 Building Department's interpretation, application
18 of the code. Am I getting that right?

19 MEMBER TASKER: I think you got it
20 backwards. If we deny this application for an
21 interpretation --

22 CHAIRMAN SALADINO: No, no, no. If we
23 affirm -- if we affirm the Code Enforcement
24 Officer's --

25 MEMBER TASKER: Interpretation.

1 CHAIRMAN SALADINO: -- of the code --

2 MEMBER TASKER: Yes.

3 CHAIRMAN SALADINO: -- then he'll have to
4 apply for a use variance.

5 MEMBER TASKER: Okay.

6 CHAIRMAN SALADINO: If we deny the Code
7 Enforcement -- the Building Department's
8 interpretation of the code, it will give him the
9 opportunity to apply for, if he chooses to do so,
10 for an area variance.

11 MEMBER TASKER: As long as we know the
12 implication of our decision, that's all.

13 MR. OLINKIEWICZ: So right. But my
14 question goes to that, is what happens if I'm in
15 front of the Board for the wrong part of the
16 code, right? Like if you agree -- his
17 interpretation may be correct, that a small lot
18 is considered -- it's considered a small lot
19 because it's less than 60 feet wide, but that
20 doesn't mean that it should have been a use
21 variance application before, it should have
22 been --

23 CHAIRMAN SALADINO: I'm going to -- I'm
24 going to -- if you'll allow me, I'll read that.
25 I'll read that. Do you want to stay there? I'll

1 read this.

2 MR. OLINKIEWICZ: Yeah, please.

3 CHAIRMAN SALADINO: The Notice of
4 Disapproval is 150 -- 150-13(E), is existing
5 small lots are only allowed to have a one-family
6 residence constructed -- constructed on them. So
7 that takes it out of the dimensional thing.
8 "Existing small lots. A lot owned individually
9 and separately, and separated in ownership from
10 any adjoining tracts of land, which has a total
11 lot area or lot width less than prescribed in
12 this chapter, may be used for a one-family
13 residence, provided that such lot" -- and then it
14 goes on to say, "Provided that such lot shall be
15 developed in conformity with all applicable
16 district regulations."

17 So that's the Notice of Disapproval. One
18 of the rules that we have to work under is the
19 definition of interpretation. This is from New
20 York State Village Law, Planning and Zoning
21 outline. "Where the language of a statute is
22 clear and unambiguous, the interpreting authority
23 must give effect to its plain meaning. Words are
24 not to be rejected as superfluous. In addition,
25 it is a general rule in an interpretation of

1 statutes that the legislative intent is primarily
2 to be determined from the language used in the
3 act."

4 So that's -- that's what we have in front
5 of us. We're going to -- we're going to listen
6 to you, we're going to listen to whoever in the
7 public wants to speak, and then we're going to,
8 among the members, after we close the public
9 hearing, debate the information that we have.

10 MR. OLINKIEWICZ: Could you, please, repeat
11 why it's out of an area variance in the first
12 thing that you read, not in the New York State,
13 but in the other?

14 CHAIRMAN SALADINO: From the Notice of
15 Disapproval?

16 MR. OLINKIEWICZ: Yeah, could you -- why it
17 would be out of an area variance?

18 CHAIRMAN SALADINO: It says existing small
19 lots are only allowed to have a one-family
20 residence constructed on them. That's the code
21 enforcement's contention. 150-13(E) says,
22 "Existing small lots. A lot owned individually
23 and separately, and separated in ownership from
24 any adjoining tracts of land, which has a total
25 lot area or lot width less than prescribed in

1 this chapter, may be used for a one-family
2 residence."

3 MR. OLINKIEWICZ: Okay. But it doesn't say
4 can only be used for a one-family residence, it
5 says may be used.

6 CHAIRMAN SALADINO: Well, "may", "may" in
7 zoning means "shall"; am I --

8 MR. CONNOLLY: Right.

9 CHAIRMAN SALADINO: "May" is interpreted to
10 mean "shall".

11 MR. OLINKIEWICZ: "Shall" in the Zoning
12 Code? Okay.

13 CHAIRMAN SALADINO: Well, we could ask the
14 Attorney.

15 MR. CONNOLLY: Yeah.

16 MEMBER TASKER: Yeah.

17 MR. CONNOLLY: You're right.

18 CHAIRMAN SALADINO: Actually, we have
19 another Attorney to ask, also. So that's just
20 what we're going by here.

21 MR. OLINKIEWICZ: Okay.

22 CHAIRMAN SALADINO: Do you have anything to
23 add?

24 MR. OLINKIEWICZ: (Shook head no.)

25 CHAIRMAN SALADINO: No? We're going to let

1 somebody else talk?

2 MR. OLINKIEWICZ: Yeah, it's somebody
3 else's turn.

4 CHAIRMAN SALADINO: Is there anybody else
5 from the public that would like to speak?

6 (No Response)

7 CHAIRMAN SALADINO: Really? Okay. Jimmy,
8 you want to say anything else? No?

9 MR. OLINKIEWICZ: No.

10 CHAIRMAN SALADINO: Okay. So I'll make a
11 motion that we close this public hearing.

12 MEMBER TASKER: Second.

13 CHAIRMAN SALADINO: All in favor?

14 MR. CORWIN: Aye.

15 MEMBER TASKER: Aye.

16 MEMBER REARDON: Aye.

17 CHAIRMAN SALADINO: And I'll vote aye.

18 We have an agenda here. Item No. 5 on our
19 agenda is a continuation of the Public Hearing
20 regarding area variances requested by ANVK
21 Holdings Trust (the Greenporter Hotel) for the
22 property located at 326 Front Street, Greenport,
23 New York 11944. The property is located in the
24 C-R (Commercial Retail) District. The property
25 is not located in the Historic District. The

1 Public Notice is attached. The Suffolk County
2 Tax Map Number is 1001-4.-8-29-30-31.

3 in the interest of full disclosure, I got
4 an email from -- apparently, I'm the only one
5 that got it. I got an email from the applicant
6 saying that her attorney would be unavailable
7 tonight and she would be unavailable, and she's
8 requesting an adjournment. I'm going to ask the
9 members if -- do we -- I'm searching for the
10 words here. Do we want to -- do we want to
11 adjourn this again, or is there a reason that we
12 might have to close it?

13 MR. CORWIN: Well, the only reason is
14 they're going to be hollering and screaming if we
15 do.

16 CHAIRMAN SALADINO: I gave them all your
17 phone number, David, so they'll call.

18 MEMBER TASKER: John, I think we've got a
19 couple of choices here. In fact, we can simply
20 adjourn it, as is suggested by the applicant, or
21 we could continue to hold the hearing today. If
22 there are people who have come here to this
23 session of the Zoning Board who want to address
24 the Board as part of the continued public
25 hearing, we can do that and then adjourn it, or

1 terminate it. So we've got a number of choices
2 that we can make.

3 CHAIRMAN SALADINO: Well, what do we think?
4 Let me ask the public. Has anybody come here
5 tonight to speak to this public hearing? No?

6 MS. ALLEN: No. I had issues here that --

7 CHAIRMAN SALADINO: I'm sorry?

8 MS. ALLEN: I pretty much said what I had
9 to say on this application. I wish they would be
10 here. This is like the third month in a row they
11 haven't shown up.

12 CHAIRMAN SALADINO: Okay, okay. The other
13 thing that we might do is perhaps -- I'm sorry.

14 MS. WADE: I just wanted to make sure that
15 my written comments were accepted by you, were
16 received.

17 CHAIRMAN SALADINO: Do we have --

18 MS. WADE: Randy Wade. Did you receive my
19 emailed comments? It was over a month ago.

20 MEMBER TASKER: You sent them to the Board
21 Members individually, I believe; is that correct?

22 MS. WADE: And I asked somebody to forward
23 it to you, because I didn't have your email.

24 MEMBER TASKER: I'm sorry. Yes.

25 MS. WADE: I did not have your email.

1 MEMBER TASKER: Yes.

2 CHAIRMAN SALADINO: Did we put them in the
3 public record last month?

4 MEMBER TASKER: I don't think so. I think
5 they were sent, Ms. Wade's email was sent
6 directly to four members of the Zoning Board and
7 to the Village Clerk to forward it to me, because
8 she didn't have my email address. It was not
9 addressed to the Village Clerk, it was not
10 addressed to the Village Administrator, or to the
11 Building Official, so --

12 MS. WADE: All right.

13 ADMINISTRATOR PALLAS: I have copies in the
14 file.

15 CHAIRMAN SALADINO: The copy's in the file?

16 MEMBER TASKER: I don't see it as a part of
17 the public record.

18 MS. WADE: All right. So, Randy Wade,
19 Sixth Street, Greenport. I request that the
20 comments that I emailed to you were meant to be
21 official comments, not just informal opinions.

22 CHAIRMAN SALADINO: I'm sorry, Randy.

23 MS. WADE: I meant for them to be my
24 official comments, and not just informal
25 opinions, emailed to you each individually.

1 CHAIRMAN SALADINO: Okay.

2 MS. WADE: If that's okay.

3 CHAIRMAN SALADINO: That's fine. And you
4 kind of heard what's happening here tonight,
5 right?

6 MS. WADE: Right. And if it can -- I'm
7 happy to come back next month, also, so I don't
8 have to take up --

9 CHAIRMAN SALADINO: Would you be satisfied
10 if we -- if we just included your comments into
11 the public record?

12 MS. WADE: Yeah, that would be great.

13 CHAIRMAN SALADINO: What I'm asking you is
14 do you need to read them for the public, or are
15 you satisfied for us to --

16 MS. WADE: I'm satisfied that they go into
17 the minutes.

18 CHAIRMAN SALADINO: Okay.

19 MS. WADE: And that you would promise
20 you'll read them. Thank you.

21 CHAIRMAN SALADINO: Well, we've all read
22 them.

23 MS. WADE: You decision-makers.

24 CHAIRMAN SALADINO: We've all read them.

25 MS. WADE: Oh, thanks. Okay, that's great.

1 Thanks.

2 CHAIRMAN SALADINO: Okay.

3 MS. WADE: Did you have any comments on
4 them? Are you allowed to say out loud?

5 CHAIRMAN SALADINO: Well, yeah, normally,
6 we certainly would be. But, right now, the
7 question in front of us is, is what are we going
8 to do with this public hearing.

9 MS. WADE: You're right.

10 CHAIRMAN SALADINO: So I don't want to add
11 to the record, I don't want to add our comments.
12 And the applicant has requested that we adjourn
13 the public hearing.

14 MS. WADE: I would support her, her motion,
15 then, that's another comment from me. Thank you.

16 CHAIRMAN SALADINO: All right. We're going
17 to put Randy down for a yes vote. We're going to
18 put her down for a yes.

19 (Laughter)

20 MS. WADE: Thanks, you guys.

21 CHAIRMAN SALADINO: So what -- the other
22 thing is, is that we could -- we could keep the
23 written record open for -- until the next
24 meeting, close the public hearing, keep the
25 written record open until the next meeting. Keep

1 the written record open, what is it, 30 days, two
2 weeks or 30 days? I'm not sure what else can be
3 said here, but I'll leave it up to the Board.
4 What do we think, guys? David?

5 MR. CORWIN: Well, we pretty much heard it
6 all, but just to keep the applicant happy, let's
7 adjourn it and leave it open.

8 CHAIRMAN SALADINO: You, too?

9 MEMBER TASKER: The applicant, apparently
10 through email, has submitted certain documents
11 and so forth relating to COs and so forth to one
12 of the members of the Village Board of Trustees.
13 Have -- are they a part of the record?

14 CHAIRMAN SALADINO: Her interaction with a
15 member of the Board of Trustees is outside the --

16 MEMBER TASKER: Is her own, yes.

17 CHAIRMAN SALADINO: -- is outside the
18 authority of this Board, you know.

19 MR. CORWIN: I believe that the C of O's
20 that were in that email were given to us
21 separately by staff, because I saw them in my
22 piles --

23 CHAIRMAN SALADINO: No, that's --

24 MEMBER CORWIN: -- my pile of stuff.

25 CHAIRMAN SALADINO: That's -- no. The

1 night -- the night that the attorney was here,
2 Mr. Cuddy was here, he supplied the Board -- he
3 supplied the Board with the copy of those COs.
4 He also supplied the Board with an affidavit by a
5 former official, by former Mayor Kapell, and we
6 didn't have a chance to read them that night. We
7 gave them to the Building Clerk, she made copies
8 for us, and then distributed them to us in our
9 mailboxes. But the night, the night that we got
10 them, they were handed to us, but nobody --
11 nobody had a chance to read them.

12 MEMBER TASKER: Okay. They're -- we're
13 satisfied that they're part of the public record.

14 CHAIRMAN SALADINO: The comment -- the
15 comments that were supplied to us --

16 MEMBER TASKER: Yes.

17 CHAIRMAN SALADINO: -- by Mr. Cuddy?

18 MEMBER TASKER: Yes.

19 CHAIRMAN SALADINO: I am.

20 MEMBER TASKER: And the ones referred to,
21 which apparently are the same ones referred to in
22 the email from the applicant to Trustee Phillips.

23 CHAIRMAN SALADINO: I would rather not even
24 discuss that. I don't know what the -- I wasn't
25 privy to the conversation between the applicant

1 and Trustee Phillips, so I don't know what went
2 on between the two of them. So maybe we'll just
3 leave that out of our conversation.

4 MEMBER TASKER: I'm content with that.

5 CHAIRMAN SALADINO: So we're going to --
6 we'll leave it -- we're okay with adjourning
7 this, right? We're okay with accommodating them,
8 adjourning this?

9 MR. CORWIN: I am.

10 CHAIRMAN SALADINO: Everybody? The only,
11 the only thing that I would like to add to that,
12 I received two or three -- two emails and one
13 personal conversation with people that were
14 concerned that we were unnecessarily prolonging
15 this.

16 (Laughter)

17 CHAIRMAN SALADINO: This public hearing. I
18 had to remind them that we were prepared to close
19 this public -- we're prepared to close this
20 tonight if the applicant was here. We were
21 prepared to close this public hearing three
22 months ago. We kept it open at the applicant's
23 request.

24 So to those people that are out there that
25 perhaps are watching, we're doing -- we're trying

1 to get it off our plate, but we don't seem to be
2 able to.

3 I'm going to make a motion that we adjourn
4 this public hearing and that the applicant -- and
5 that the applicant request in writing to the
6 Building Department, at least 15 days before our
7 next scheduled -- a scheduled meeting, not our
8 next meeting, that they request from the Building
9 Department in writing to be put on the agenda.
10 This way -- 15? When do applications have to
11 be in?

12 ADMINISTRATOR PALLAS: That's the right --
13 two weeks.

14 MS. AURICHIO: Two weeks.

15 ADMINISTRATOR PALLAS: Two weeks.

16 CHAIRMAN SALADINO: So we're going to ask
17 the applicant to request in writing from the
18 Building Department at least 15 days before a
19 scheduled meeting. So moved.

20 MR. CORWIN: Second.

21 CHAIRMAN SALADINO: All in favor?

22 MEMBER TASKER: Aye.

23 MEMBER CORWIN: Aye.

24 MEMBER REARDON: Aye.

25 CHAIRMAN SALADINO: And I'll vote aye.

1 Wow, that was -- so Item No. 6 is a
2 discussion and possible motion on the area
3 variances applied for by ANVK Holdings Trust.
4 We're going to put a pin in that, because the
5 public hearing is still open. And we're going
6 to -- we're going to -- obviously, I must have
7 left something off the agenda here, the
8 discussion about the -- Mr. Olinkiewicz'.

9 MR. CORWIN: No. 7 covers it.

10 MEMBER TASKER: Yeah.

11 MR. CONNOLLY: I guess so.

12 MEMBER TASKER: I think she wanted it under
13 Item 7.

14 CHAIRMAN SALADINO: I thought I -- I
15 thought I had -- I thought I had included that,
16 but we're going to have a discussion and a
17 possible motion on the interpretation request.

18 Item No. 7 is any other Zoning Board of
19 Appeals business that might properly come before
20 this Board. We're going to -- we're going to
21 have a discussion and a possible motion on the
22 interpretation of Olinkiewicz, of 415 Kaplan
23 Avenue Incorporated.

24 So I read, I read the -- I read our code.
25 I read our code. I read the rules of

1 interpretation. We have from the applicant the
2 definition of a use variance. I'm going to maybe
3 read it from this book, not that we don't trust
4 Jimmy for a copy of that that's a word that's --
5 use variances.

6 General City Law, Village Law defines a use
7 variance as the authorization by the Zoning Board
8 of Appeals for the use of land for a purpose
9 which is otherwise not allowed or is prohibited
10 by the applicable zoning regulations. If we --
11 if -- for myself, if I read this from New York
12 State law from the planning and zoning outline
13 from New York Conference of Mayors and Municipal
14 Officials, from one of the training seminars we
15 went to, I'll read it again.

16 "Where the language of the statute is clear
17 and unambiguous, the interpreting authority must
18 give effect to its plain meaning. Words are not
19 to be rejected as superfluous. In addition, it
20 is the general rule in the interpretation of
21 statutes that the Legislative intent is primarily
22 to be determined from the language used in the
23 act, considering the language in its most natural
24 and obvious sense. The ZBA is not authorized to
25 read new requirements into the applicable laws,

1 because the zoning code must be construed
2 according to the words used in their ordinary
3 meaning and not" -- "and may not be extended by
4 implication."

5 Honestly, when I first saw this
6 application, I says, well, it's a residential use
7 in a residential district. The use is --
8 residential is permitted in that district. But
9 then when you go back and you read the code, the
10 code is specific. It's about -- it's about a
11 specific use on a specific piece of property.

12 I have to go back to a previous variance
13 that we gave and it's kind of opposite. It was
14 where someone wanted to build a two-family house
15 in a one-family zone, and that was -- that was
16 progressed as a use variance. The same thing
17 applied there, it was -- it was a residential
18 building in a residential district, but it was
19 still a use variance.

20 I understand variances don't carry the
21 weight of precedence, every one is weighed, but
22 where this was clear in my mind when I first saw
23 the plans for this project, now not so much.

24 So I'll open it up to the Board.

25 MR. CORWIN: Clearly, it is an area

1 variance, to my thinking.

2 CHAIRMAN SALADINO: Do you have anything
3 other to support that, just that's how you're
4 thinking? Okay. Just a comment.

5 MEMBER TASKER: Let's take the -- a look at
6 the different pieces of the rules that you read,
7 John, particularly with respect to interpreting
8 the meaning of the Legislature and the meaning of
9 the ordinance itself, because that's what we have
10 to base whether our interpretation -- because
11 we're being asked to interpret the language. So
12 let's look at where the language came from, from
13 the Legislature, and is it plain, is it clear, is
14 it ambiguous, is it not?

15 CHAIRMAN SALADINO: Well, I --

16 MEMBER TASKER: That should be the basis
17 for our decision.

18 CHAIRMAN SALADINO: I have -- I have the
19 Notice of Disapproval in front of me.

20 MEMBER TASKER: Yeah.

21 CHAIRMAN SALADINO: I have the code book
22 here --

23 MEMBER TASKER: Yeah.

24 CHAIRMAN SALADINO: -- that I could -- we
25 could read it. I'm assuming that what the Code

1 Enforcement Officer wrote in the Notice of
2 Disapproval reflects what's written in the code.
3 I didn't -- I didn't compare them side by side.

4 MEMBER TASKER: Yeah, it does.

5 CHAIRMAN SALADINO: It does. So if we're
6 going to take the plain meaning of the words in
7 the code --

8 MEMBER TASKER: Let's start with is there
9 any ambiguity in 150-13(E)?

10 CHAIRMAN SALADINO: We can read it again.
11 "Existing small lots." That might be -- that
12 might be open for some -- an interpretation of
13 somebody's opinion, but then it goes on to say,
14 "A lot owned individually and separately, and
15 separated in ownership from any adjoining tracts
16 of land, which has a total lot area or a lot
17 width less than prescribed in this chapter, may
18 be used for a one-family residence."

19 MR. CONNOLLY: And what's being proposed is
20 a two-family residence, correct?

21 CHAIRMAN SALADINO: Yes.

22 MEMBER TASKER: Yes.

23 CHAIRMAN SALADINO: I'm just not sure how
24 much plainer that can be.

25 MR. CORWIN: A one-family residence is

1 residential and a two-family residence is
2 residential. If Mr. Olinkiewicz wanted to open a
3 market there, then it would be a use variance.

4 CHAIRMAN SALADINO: I think, I think where
5 it --

6 MEMBER TASKER: Permitting only, it doesn't
7 say "only", but it says prescribed in this
8 chapter, may be used for a one-family residence,"
9 indicates that although, generally, in
10 residential, in an R-2 area, you would expect to
11 be able to build a one or a two-family house.
12 You can build a one-family house under these
13 circumstances where it is under width.

14 CHAIRMAN SALADINO: So would a
15 two-family --

16 MEMBER TASKER: It doesn't go on -- excuse
17 me. It doesn't go on to consider whether you can
18 put a store there or some other use than
19 residential. It's -- the question is what kind
20 of residential can be put there, and that's a use
21 variance.

22 CHAIRMAN SALADINO: Well, that's my
23 question to you, for the Board, for the Members.
24 According to this portion of the code, according
25 to this section of the code, on that lot, because

1 it says "land", it doesn't say "district", on
2 that lot, a permitted use would be a one-family
3 dwelling, one-family residence. That would be a
4 permitted use. According to this, a two-family
5 house, two-family residence, would not be a
6 permitted use. So if it's not a permitted use,
7 wouldn't the relief from that be a use variance?

8 MEMBER TASKER: Seems to me.

9 CHAIRMAN SALADINO: Can't you just build a
10 one-family house?

11 MR. OLINKIEWICZ: Just economically doesn't
12 make sense.

13 MR. CORWIN: But what I think has to be
14 pointed out is that it's much harder to meet the
15 requirements of a use variance than an area
16 variance.

17 CHAIRMAN SALADINO: Well, that's -- that's
18 not -- that's not our concern right now. That's
19 not -- I don't believe that's anything we should
20 be considering right now. You know, that's --
21 you know, right now, it's how this portion of the
22 code is worded, and how the Code Enforcement
23 Officer --

24 MEMBER TASKER: Applied.

25 CHAIRMAN SALADINO: -- applied it. That's

1 the only thing we should be considering now.

2 Right? Am I getting that right?

3 MEMBER TASKER: I think so. I mean, the
4 question is, is there any ambiguity? It doesn't
5 seem so. Is there any question about what the
6 intent of the people who wrote the Zoning Code
7 had in mind when they wrote that particular
8 section? And you infer that from the language of
9 the section itself, what the intent of the
10 Legislature was when they enacted this.

11 What happens if you follow, if you track
12 that section of the statute word by word or
13 phrase by phrase is a logical sequence of events.
14 You can't build any residence except a one-family
15 residence if the lot is under width.

16 CHAIRMAN SALADINO: Jack?

17 MEMBER REARDON: My interpretation is that,
18 you know, the lot supports a one-family home the
19 way it's written. He's applying for a use
20 variance and I think he's going down the right
21 road right now.

22 MEMBER TASKER: Well, that's the question,
23 if we agree with the interpretation --

24 CHAIRMAN SALADINO: He's challenging that.

25 MEMBER TASKER: -- which variance he's

1 going to be applying for.

2 CHAIRMAN SALADINO: I'm -- this, also --
3 maybe this will help, also. They give case law.
4 I'm not going to read the case law. "In
5 construing statutes, it's a well established rule
6 that resort must be added" -- "that resort must
7 be added to the natural significance of the word
8 employed, and if they have a definite meaning,
9 which involves no absurdity or contradiction,
10 there is no room for construction, and courts
11 have no right to add or take away from that
12 meaning."

13 I don't know. In my mind, this is -- this
14 is -- should I -- should I -- are we reasonably
15 sure this is the way it's written in our code?

16 ADMINISTRATOR PALLAS: I could double-check
17 right now, if you want.

18 CHAIRMAN SALADINO: Could you? This way we
19 don't -- maybe we left a word out or --

20 MEMBER TASKER: Which one, John?

21 CHAIRMAN SALADINO: 150-13(E).

22 MEMBER TASKER: Oh.

23 CHAIRMAN SALADINO: Maybe if we read -- I
24 have the big book, Village --

25 MR. CORWIN: Here it is, John. Here it is,

1 right here.

2 CHAIRMAN SALADINO: "Existing small lots.
3 A lot owned individually and separately and
4 separated in ownership from any adjoining tracts
5 of land." We can agree that's what's going on.
6 "Which has a total lot area or lot width less
7 than prescribed in this chapter, may be used for
8 a one-family residence, provided that such lot
9 shall be developed in conformity with all
10 applicable district regulations."

11 I can't -- I can't see it any other way
12 than it's written here. A one-family house -- if
13 I say house, I apologize, I mean residence. If a
14 one-family house, one-family residence, according
15 to this chapter, it's a permitted use. According
16 to this, it's not a permitted use. If it's not a
17 permitted use on any -- any lot or district, it
18 requires a use variance.

19 MEMBER TASKER: Yeah, I think that's a
20 logical chain of argument, John.

21 CHAIRMAN SALADINO: But the problem is I'd
22 like to see this house built, but -- anybody
23 else, anything else? You want to add something?
24 No?

25 MR. OLINKIEWICZ: We'll continue on with

1 whatever you decide.

2 CHAIRMAN SALADINO: All right. What do you
3 think? We make a motion that -- I'm going to
4 make a motion that we affirm the Code Enforcement
5 Officer's application of 150-13(E) for 415 Kaplan
6 Avenue, Greenport, Incorporated. So moved.

7 MR. CORWIN: Second.

8 MEMBER TASKER: Second. And if I may
9 suggest an amendment, add some additional wording
10 to require that only a single-family house,
11 single-family residence is permitted because of
12 the lot width.

13 CHAIRMAN SALADINO: Well --

14 MEMBER TASKER: And then we matched it to
15 the statute.

16 CHAIRMAN SALADINO: Well, isn't that
17 redundant? I mean, the Notice of Disapproval is
18 written by the Code Enforcement Officer and he's
19 basically saying that. So if we affirm that,
20 we're agreeing, we're agreeing with the Code
21 Enforcement Officer.

22 MEMBER TASKER: Can you read back the
23 motion, please?

24 MS. BRAATEN: The motion?

25 MEMBER TASKER: Yes, John's motion that he

1 just stated.

2 CHAIRMAN SALADINO: I didn't even know she
3 could do that.

4 (Laughter)

5 CHAIRMAN SALADINO: Do you want me to just
6 make it again.

7 MS. BRAATEN: The original motion?

8 MEMBER TASKER: The one that Mr. Saladino
9 just made, yes.

10 (Whereupon, the motion was read back.)

11 CHAIRMAN SALADINO: Well, let me ask the
12 Attorney.

13 MEMBER TASKER: Okay.

14 CHAIRMAN SALADINO: Will that -- is that --

15 MR. CONNOLLY: That's all you're being
16 asked to do.

17 CHAIRMAN SALADINO: All right. So did we
18 vote?

19 MEMBER TASKER: No.

20 CHAIRMAN SALADINO: I made the motion,
21 David second it. David, you want to vote?

22 MR. CORWIN: Are you calling the roll?

23 CHAIRMAN SALADINO: Sure.

24 MR. CORWIN: You guys have changed my mind.
25 I will vote aye.

1 CHAIRMAN SALADINO: Jack?

2 MEMBER REARDON: Aye.

3 CHAIRMAN SALADINO: Arthur.

4 MEMBER TASKER: Aye.

5 CHAIRMAN SALADINO: And I'll vote aye. You
6 got to come back for a use variance.

7 MR. OLINKIEWICZ: No problem.

8 CHAIRMAN SALADINO: Okay. Item No. 7 is
9 any other Zoning Board of Appeals business that
10 might properly come -- oh, we did that, but I'm
11 going to read it again, in case somebody in the
12 audience has something to say. If not, I
13 actually have something to say.

14 I read something, I'm not quite sure where,
15 from someone somewhere, that on one of these
16 applications that we have, that we adjourned,
17 that the Zoning Board has drawn a line in the
18 sand, is pretty much -- I want to dispute that.
19 This -- first of all, the public hearing is not
20 even closed. I'm positive, and I could speak for
21 the members, I could speak for the member that's
22 not here, that nobody has pre-decided this case.
23 Nobody has drawn a line in the sand, nobody's --
24 as just exhibited here tonight, the Zoning Board
25 members are free-thinkers, they listen to the

1 discussion, they change their mind, make up their
2 mind.

3 So for someone to say that the Zoning Board
4 has pretty much drawn a line that -- about a
5 certain application is patently false. We don't
6 do that. Perhaps in a different time there was
7 Zoning Board's that did that. This is not one of
8 them. So I just -- I just want to say that.

9 I'm not going to read this out loud, I just
10 thought I'd mention that. If that person's
11 watching, that's my feeling about the statement
12 that they made.

13 Anybody else have anything to say, anybody,
14 something they want to --

15 MR. CORWIN: One other thing, Mr. Chairman.

16 CHAIRMAN SALADINO: Sure.

17 MEMBER CORWIN: At the work session of the
18 Village Board, Attorney Prokop, Trustee Phillips
19 and Clarke, I guess both, Trustee Clarke started
20 the idea and Trustee Phillips agreed with him,
21 that there should be some changes to the code,
22 particularly in terms of 150-12(C), the use,
23 adaptation or change of use of any building where
24 it says you don't need parking. They brought up
25 the idea that need this and changes need in the

1 code.

2 And the question was how to proceed, and
3 Mr. Prokop said, well, we should send a letter to
4 the Planning Board and the Zoning Board to see
5 what they think. So, obviously, they haven't
6 sent a letter yet, but it's something to think
7 about in terms of I assume that it's coming.

8 CHAIRMAN SALADINO: I agree with you,
9 David. I think -- I think Zoning and Planning
10 should be -- should be lobbying. Since we're the
11 ones on the front lines here with those two
12 portions of our code, and for the public, both of
13 them basically kind of say the same thing, that
14 any property that was improved prior to 1991 is
15 exempt from parking. In 1991, that might have
16 been appropriate, the Village was a different
17 place. Now, in 2020, everybody in this room
18 knows that the Village is in the summer, in the
19 winter obviously not so much, but in the summer,
20 the Village is basically strangled by parking.

21 I have some ideas of how that could
22 improve. I think -- I think it's easily fixed.
23 It's -- instead of the word "property", you
24 substitute the word "business". This way -- or
25 enhancement of business, or enlargement of

1 business. This way, when businesses change hands
2 and they expand, and because they're protected --
3 obviously, any application that's in front of us
4 now would be exempt from this, so I don't want --
5 I don't want any applicant that's -- that has an
6 issue with parking in front of this Board now to
7 think that this might be in response to that
8 application, it's not.

9 So Planning has offered an opinion. I
10 think the Village Board should -- I mean, I know
11 there's a lot of things on the Village Board's
12 plate, grants, and sewers, and power plants, and
13 God knows what else, but it -- in January, it's
14 not that big an issue, but in July, it becomes a
15 big deal.

16 So, you know, that's what I'm kind of
17 thinking. If we had a letter -- I'm not sure.
18 Did the Village Board want a letter from us, or
19 they were going to send us a letter?

20 MR. CORWIN: The way I took it, what
21 Mr. Prokop said was they, really him, was going
22 to send the letter.

23 CHAIRMAN SALADINO: All right.

24 MR. CORWIN: So --

25 CHAIRMAN SALADINO: Is that what you

1 remember?

2 ADMINISTRATOR PALLAS: Yeah.

3 CHAIRMAN SALADINO: So we shouldn't be
4 talking about it until we get that letter.

5 (Laughter)

6 MR. CORWIN: Well, hey, tonight's a great
7 time to talk about it.

8 CHAIRMAN SALADINO: I agree.

9 MEMBER CORWIN: We know it's out there, and
10 we didn't have a big agenda, so.

11 CHAIRMAN SALADINO: I agree, David, I
12 agree. It's something that, hopefully, the
13 Village Board will come up with some language and
14 perhaps hold a public hearing, and we would, as a
15 Board, certainly could weigh in then.

16 Do you guys, Arthur and Jack, have any
17 opinion about that?

18 MEMBER TASKER: I certainly think it's time
19 for a change in that -- in the way the parking is
20 regulated, and if it gets down to changing the
21 Zoning Code to accomplish that in terms of how
22 buildings are used or turned over, I think it's
23 quite appropriate.

24 MR. CORWIN: I think the problem is people
25 are coming in and they're abusing that privilege,

1 because they just keep expanding the buildings.
2 They take up what was a yard or a pavement and
3 they put tables and chairs on it, and I think
4 that was never the intent of that. The original
5 intent, as I understand it, was if somebody had,
6 say, an antique store, that by the code, if it
7 was from scratch, needed maybe four parking
8 places, and they wanted to change it to a
9 restaurant, which by code would need 30 parking
10 places. And there was the problem, because, all
11 of a sudden, a lot of places expanded, and they
12 expanded where -- if that was not -- 150-12(C)
13 wasn't in there, they would have had to get some
14 kind of variance to do their expansion.

15 CHAIRMAN SALADINO: Well, I think -- I
16 think we're partially to blame, we collectively,
17 the statutory Boards. You know, we -- unfettered
18 expansion, you know, only exacerbates the lack of
19 parking. And as a statutory Board, sometimes
20 that might come in front of us, sometimes it's
21 more likely to go in front of Planning. So we
22 contribute to that, too.

23 I had thought the ordinance --

24 MEMBER TASKER: I don't agree.

25 CHAIRMAN SALADINO: You don't believe that?

1 MEMBER TASKER: I don't agree.

2 CHAIRMAN SALADINO: Okay.

3 MEMBER TASKER: We deal with the ordinances
4 we're dealt.

5 CHAIRMAN SALADINO: No, I understand that.
6 I understand that. But, anyway, just to go
7 forward a little bit, I thought in 1990, or
8 1990 -- the code was changed in 1990 and they
9 made the building from '91. So I had thought
10 that perhaps that was progressed, because, like I
11 said, Greenport was a different place at that
12 time. There was --

13 MR. CORWIN: There were a lot of -- excuse
14 me, I shouldn't interrupt, but there were a lot
15 of empty stores at the time. That's not so anymore.

16 CHAIRMAN SALADINO: I was just going to say
17 that. You know, we had some stores that were --
18 Front Street, Main Street had a lot of empty
19 stores. The Mayor at that time thought this
20 would help fill those stores with renters and
21 stuff. But now, in this day and age, it's --
22 there must be a sign someplace. I tell this to
23 Mr. Pallas all the time. I think there's a sign
24 in Babylon someplace that says, "Go to Greenport,
25 You Don't Have to Provide Parking," you know, and

1 everybody, all the investment construction guys
2 read that sign and they come here.

3 MEMBER TASKER: Well, I think it's Babylon,
4 in fact, that has a moratorium on new restaurants
5 in it.

6 CHAIRMAN SALADINO: I think it's Patchogue.

7 MEMBER TASKER: No, Patchogue is
8 considering it. I think Babylon already has it.

9 CHAIRMAN SALADINO: So I'm not going to --
10 I'm not going to get into that discussion about
11 moratorium, that's Village Board, they'll decide
12 that. But that's kind of like my thoughts. When
13 we get the letter from the Village Board, we'll
14 talk about it a little more. Maybe the public
15 will have something to say about it. I don't know.

16 We're going to have a motion to adjourn?
17 Item No. 8 is the motion to adjourn. So moved.

18 MEMBER TASKER: Second.

19 CHAIRMAN SALADINO: All in favor?

20 MEMBER CORWIN: Aye.

21 MEMBER REARDON: Aye.

22 MEMBER TASKER: Aye.

23 CHAIRMAN SALADINO: And I'll vote aye.

24 Thank you, folks.

25 (Time Noted: 6:57 p.m.)

1 (The following is an email sent to Board Members
2 and Village of Greenport Staff by Randy Wade:)

3 Dear Zoning Board of Appeals Members,

4 Please accept my comments regarding the
5 Greenporter Hotel's request to expand from 34
6 hotel units to 52 while maintaining the 27
7 parking spots and a loading zone.

8 First, the goal of allowing older buildings to
9 pay for parking, instead of providing one per
10 hotel unit and one per worker, was intended to
11 preserve historic buildings and maintain the
12 street wall for a more walkable village. The
13 Village Board has not increased the fee in lieu
14 of parking so it would be tempting to call a
15 moratorium on all parking waivers until the fee
16 has been brought up to the market value of a
17 parking space.

18 However this is a special village business run
19 with care and creativity, so even though this
20 property does not meet the goals of the parking
21 waiver legislation, I support many of the
22 expansion features and consider it a beautiful
23 design.

24 The code describes building height of 35' or 2
25 1/2 stories, whichever is less, in the
26 Multifamily section of the code. This makes
27 logical sense for all districts, unless there is
28 an adjacent historic building that is higher in a
29 commercial district, because our village is
30 almost entirely pitched roof structures with a
31 peak height approaching 35' but only a 1/2 floor
32 of useable space upstairs in the attic floor. The
33 hotel is adjacent to residential on its north and
34 east side and should therefore be in context with
35 the traditional building size of the
36 neighborhood.

37 The above suggestions could be met by eliminating
38 3-10, 3-11, 3-12 on the north side and 3-13,
39 3-14, 3-15, 3-16 on the east side. This would
40 allow 11 new units for a total of 45 units.

41 Other considerations:

42 There should be no roof fencing on top of the 3rd
43 floor and solar panels should be set back 15'

1 from the roof edge since they are proposed to be
2 pitched and visible.

3 The Basement should be labeled Cellar. The
4 definition of a basement requires 4' above grade.
5 This may require a variance for its use which I
6 would support.

7 There should not be a fence blocking the 4th
8 Street parking egress for safety and to avoid
9 congestion on Front Street.

10 The ZBA ruling should specify that it is
11 contingent upon the Village receiving a fee for
12 the 11 new hotel units and the one or two new
13 workers that this would require.

14 Thank you for your consideration.

15 Sincerely,
16 Randy Wade, 6th Street

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	34 [1] - 47:4 35' [2] - 47:15, 47:19 3rd [1] - 47:25	35:15 act [2] - 14:3, 27:23 action [1] - 46:14 actual [1] - 8:8 adaptation [1] - 39:23 add [7] - 15:23, 21:10, 21:11, 24:11, 34:11, 35:23, 36:9 added [2] - 34:6, 34:7 addition [2] - 13:24, 27:19 additional [1] - 36:9 address [2] - 17:23, 19:8 addressed [2] - 19:9, 19:10 adjacent [2] - 47:17, 47:20 adjoining [4] - 13:10, 14:24, 30:15, 35:4 adjourn [8] - 17:11, 17:20, 17:25, 21:12, 22:7, 25:3, 45:16, 45:17 adjourned [1] - 38:16 adjourning [2] - 24:6, 24:8 adjournment [1] - 17:8 Administration [1] - 9:16 administrative [1] - 5:6 ADMINISTRATOR [9] - 1:20, 4:5, 4:9, 4:15, 19:13, 25:12, 25:15, 34:16, 42:2 Administrator [1] - 19:10 advisory [1] - 5:4 affidavit [1] - 23:4 affirm [8] - 10:21, 10:22, 11:14, 11:15, 11:23, 36:4, 36:19 age [1] - 44:21 agenda [8] - 4:6, 4:8, 4:11, 16:18, 16:19, 25:9, 26:7, 42:10 ago [2] - 18:19, 24:22 agree [9] - 12:16, 33:23, 35:5, 40:8, 42:8, 42:11, 42:12, 43:24, 44:1	agreed [1] - 39:20 agreeing [3] - 11:16, 36:20 ALLEN [2] - 18:6, 18:8 allow [2] - 12:24, 47:24 allowed [6] - 6:11, 7:2, 13:5, 14:19, 21:4, 27:9 allowing [1] - 47:6 almost [1] - 47:18 AMANDA [1] - 1:21 ambiguity [2] - 30:9, 33:4 ambiguous [1] - 29:14 amendment [1] - 36:9 antique [1] - 43:6 ANVK [2] - 16:20, 26:3 anyway [1] - 44:6 apologize [1] - 35:13 appeal [3] - 5:10, 8:17 APPEALS [1] - 1:4 appeals [1] - 5:8 Appeals [10] - 2:3, 2:7, 2:16, 3:4, 6:10, 6:25, 26:19, 27:8, 38:9, 47:3 applicable [5] - 7:2, 13:15, 27:10, 27:25, 35:10 applicant [16] - 3:18, 4:18, 5:17, 17:5, 17:20, 21:12, 22:6, 22:9, 23:22, 23:25, 24:20, 25:4, 25:5, 25:17, 27:1, 41:5 applicant's [1] - 24:22 application [23] - 3:14, 4:22, 6:13, 6:23, 7:17, 7:18, 8:14, 9:1, 9:3, 9:8, 9:15, 9:24, 10:20, 10:23, 11:17, 11:20, 12:21, 18:9, 28:6, 36:5, 39:5, 41:3, 41:8 applications [4] - 9:20, 10:10, 25:10, 38:16 applied [7] - 7:11, 9:6, 9:20, 26:3, 28:17, 32:24, 32:25 apply [7] - 5:10, 8:11,	9:3, 9:17, 10:25, 12:4, 12:9 applying [5] - 6:20, 9:19, 10:20, 33:19, 34:1 appreciate [1] - 9:23 approaching [1] - 47:19 appropriate [2] - 40:16, 42:23 approve [1] - 2:14 area [33] - 5:24, 5:25, 6:9, 6:17, 6:18, 6:21, 6:23, 7:11, 7:15, 7:17, 7:22, 8:1, 8:5, 8:9, 8:10, 9:4, 9:8, 9:13, 9:19, 10:24, 10:25, 12:10, 13:11, 14:11, 14:17, 14:25, 16:20, 26:2, 28:25, 30:16, 31:10, 32:15, 35:6 argue [1] - 7:14 argument [1] - 35:20 ARTHUR [1] - 1:17 Arthur [3] - 9:6, 38:3, 42:16 Article [1] - 8:19 assume [2] - 10:16, 40:7 assuming [1] - 29:25 attached [5] - 4:2, 4:5, 4:7, 4:11, 17:1 attic [1] - 47:19 Attorney [4] - 15:14, 15:19, 37:12, 39:18 attorney [2] - 17:6, 23:1 ATTORNEY [1] - 1:19 audience [1] - 38:12 AURICHIO [2] - 1:21, 25:14 authority [3] - 13:22, 22:18, 27:17 authorization [3] - 6:9, 6:25, 27:7 authorized [1] - 27:24 Ave [1] - 3:16 Avenue [5] - 3:13, 3:15, 5:20, 26:23, 36:6 avoid [1] - 48:5 Aye [13] - 2:10, 2:11,
'91 [1] - 44:9				
1	4			
1 [1] - 2:5 1/2 [2] - 47:16, 47:19 1001-4.-1-6 [1] - 3:25 1001-4.-8-29-30-31 [1] - 17:2 11 [2] - 47:24, 48:8 11944 [2] - 3:17, 16:23 15 [3] - 25:6, 25:10, 25:18 150 [1] - 13:4 150-12(C) [2] - 39:22, 43:12 150-13(E) [6] - 3:19, 8:20, 13:4, 14:21, 30:9, 36:5 150-13(E) [2] - 10:1, 34:21 15' [1] - 47:25 17th [1] - 2:6 18th [1] - 3:5 1990 [3] - 44:7, 44:8 1991 [2] - 40:14, 40:15 19th [1] - 2:15	4 [1] - 3:13 415 [6] - 3:13, 3:15, 3:16, 5:20, 26:22, 36:5 45 [1] - 47:24 4th [1] - 48:5 4' [1] - 48:3			
	5			
	5 [2] - 8:19, 16:18 52 [1] - 47:5 53 [1] - 6:14			
	6			
	6 [2] - 3:5, 26:1 60 [1] - 12:19 6:00 [1] - 1:11 6:02 [1] - 2:1 6:57 [1] - 45:25 6th [1] - 48:11			
	7			
	7 [4] - 26:9, 26:13, 26:18, 38:8			
	8			
	8 [1] - 45:17			
	A			
	able [2] - 25:2, 31:11 abstain [1] - 2:22 abstention [1] - 3:2 abstentions [1] - 2:21 absurdity [1] - 34:9 abusing [1] - 42:25 accept [2] - 2:5, 47:4 accepted [1] - 18:15 accommodating [1] - 24:7 accomplish [1] - 42:21 according [6] - 28:2, 31:24, 32:4, 35:14,			
2				
2 [2] - 2:14, 47:15 2019 [2] - 2:6, 2:15 2020 [5] - 1:10, 3:5, 40:17, 46:12, 46:18 21 [2] - 1:10, 46:12 27 [1] - 47:5				
3				
3 [1] - 3:3 3-10 [1] - 47:23 3-11 [1] - 47:23 3-12 [1] - 47:23 3-13 [1] - 47:23 3-14 [1] - 47:23 3-15 [1] - 47:23 3-16 [1] - 47:23 30 [3] - 22:1, 22:2, 43:9 30th [1] - 46:18 326 [1] - 16:22				

2:12, 2:19, 3:10, 16:14, 16:15, 16:16, 25:23, 25:24, 45:20, 45:21, 45:22 aye [14] - 2:13, 2:20, 2:24, 3:9, 3:11, 3:12, 16:17, 25:22, 25:25, 37:25, 38:2, 38:4, 38:5, 45:23 eyes [2] - 2:23, 3:1	book [3] - 27:3, 29:21, 34:24 bottom [1] - 8:16 Braaten [1] - 46:20 BRAATEN [3] - 36:24, 37:7, 46:7 bring [1] - 9:20 brought [3] - 8:4, 39:24, 47:10 build [5] - 28:14, 31:11, 31:12, 32:9, 33:14 Building [9] - 5:22, 10:19, 11:17, 12:7, 19:11, 23:7, 25:6, 25:8, 25:18 building [7] - 4:23, 28:18, 39:23, 44:9, 47:15, 47:17, 47:21 buildings [4] - 42:22, 43:1, 47:6, 47:8 built [1] - 35:22 business [5] - 26:19, 38:9, 40:25, 41:1, 47:12 business" [1] - 40:24 businesses [1] - 41:1	7:20, 10:11, 10:13, 11:5, 11:11, 11:22, 12:1, 12:3, 12:6, 12:23, 13:3, 14:14, 14:18, 15:6, 15:9, 15:13, 15:18, 15:22, 15:25, 16:4, 16:7, 16:10, 16:13, 16:17, 17:16, 18:3, 18:7, 18:12, 18:17, 19:2, 19:15, 19:22, 20:1, 20:3, 20:9, 20:13, 20:18, 20:21, 20:24, 21:2, 21:5, 21:10, 21:16, 21:21, 22:8, 22:14, 22:17, 22:23, 22:25, 23:14, 23:17, 23:19, 23:23, 24:5, 24:10, 24:17, 25:16, 25:21, 25:25, 26:14, 29:2, 29:15, 29:18, 29:21, 29:24, 30:5, 30:10, 30:21, 30:23, 31:4, 31:14, 31:22, 32:9, 32:17, 32:25, 33:16, 33:24, 34:2, 34:18, 34:21, 34:23, 35:2, 35:21, 36:2, 36:13, 36:16, 37:2, 37:5, 37:11, 37:14, 37:17, 37:20, 37:23, 38:1, 38:3, 38:5, 38:8, 39:16, 40:8, 41:23, 41:25, 42:3, 42:8, 42:11, 43:15, 43:25, 44:2, 44:5, 44:16, 45:6, 45:9, 45:19, 45:23 chairs [1] - 43:3 challenging [1] - 33:24 chance [2] - 23:6, 23:11 change [5] - 39:1, 39:23, 41:1, 42:19, 43:8 changed [2] - 37:24, 44:8 changes [2] - 39:21, 39:25 changing [1] - 42:20 chapter [6] - 13:12, 15:1, 30:17, 31:8, 35:7, 35:15	check [1] - 34:16 checked [1] - 8:18 choices [2] - 17:19, 18:1 chooses [1] - 12:9 circumstances [1] - 31:13 City [2] - 6:2, 27:6 Clarke [2] - 39:19 clear [4] - 13:22, 27:16, 28:22, 29:13 clearly [1] - 28:25 CLERK [1] - 1:21 Clerk [4] - 4:12, 19:7, 19:9, 23:7 close [8] - 10:17, 14:8, 16:11, 17:12, 21:24, 24:18, 24:19, 24:21 closed [1] - 38:20 Code [17] - 3:20, 4:25, 8:7, 8:8, 8:19, 11:13, 11:16, 11:23, 12:6, 15:12, 29:25, 32:22, 33:6, 36:4, 36:18, 36:20, 42:21 code [33] - 4:21, 4:24, 5:1, 5:3, 8:7, 10:19, 11:14, 11:18, 12:1, 12:8, 12:16, 14:20, 26:24, 26:25, 28:1, 28:9, 28:10, 29:21, 30:2, 30:7, 31:24, 31:25, 32:22, 34:15, 39:21, 40:1, 40:12, 43:6, 43:9, 44:8, 47:15, 47:16 collectively [1] - 43:16 coming [2] - 40:7, 42:25 comment [3] - 21:15, 23:14, 29:4 comments [10] - 18:15, 18:19, 19:20, 19:21, 19:24, 20:10, 21:3, 21:11, 23:15, 47:4 commercial [1] - 47:18 Commercial [1] - 16:24 compare [1] - 30:3 concern [1] - 32:18 concerned [1] - 24:14	Conference [1] - 27:13 conformity [2] - 13:15, 35:9 congestion [1] - 48:6 CONNOLLY [7] - 1:19, 15:8, 15:15, 15:17, 26:11, 30:19, 37:15 consider [2] - 31:17, 47:14 consideration [1] - 48:9 considerations [1] - 47:24 considered [2] - 12:18 considering [4] - 27:23, 32:20, 33:1, 45:8 constructed [3] - 13:6, 14:20 construction [2] - 34:10, 45:1 construed [1] - 28:1 construing [1] - 34:5 contains [1] - 46:10 content [1] - 24:4 contention [1] - 14:21 context [1] - 47:20 contingent [1] - 48:7 continuation [1] - 16:19 continue [2] - 17:21, 35:25 continued [1] - 17:24 contradiction [1] - 34:9 contribute [1] - 43:22 conversation [3] - 23:25, 24:3, 24:13 copies [2] - 19:13, 23:7 copy [2] - 23:3, 27:4 copy's [1] - 19:15 correct [10] - 4:3, 4:15, 7:10, 8:22, 11:4, 12:17, 18:21, 30:20, 46:11 correctly [1] - 4:25 CORWIN [29] - 1:15, 2:10, 2:22, 3:9, 16:14, 17:13, 22:5, 22:19, 22:24, 24:9, 25:20, 25:23, 26:9,
B				
Babylon [3] - 44:24, 45:3, 45:8 backwards [1] - 11:20 base [1] - 29:10 based [3] - 6:8, 6:15, 6:23 Basement [1] - 48:2 basement [1] - 48:3 basis [2] - 5:11, 29:16 beautiful [1] - 47:14 becomes [1] - 41:14 between [2] - 23:25, 24:2 big [4] - 34:24, 41:14, 41:15, 42:10 bit [2] - 5:18, 44:7 blame [1] - 43:16 blocking [1] - 48:5 blood [1] - 46:14 BOARD [3] - 1:4, 1:19, 1:21 board [1] - 9:21 Board [44] - 2:3, 2:6, 2:15, 3:4, 6:10, 6:25, 7:22, 7:24, 10:14, 12:15, 17:23, 17:24, 18:20, 19:6, 22:3, 22:12, 22:15, 22:18, 23:2, 23:3, 23:4, 26:18, 26:20, 27:7, 28:24, 31:23, 38:9, 38:17, 38:24, 39:3, 39:18, 40:4, 41:6, 41:10, 41:18, 42:13, 42:15, 43:19, 45:11, 45:13, 47:1, 47:3, 47:9 Board's [2] - 39:7, 41:11 Boards [1] - 43:17	care [2] - 6:7, 47:12 carry [1] - 28:20 case [9] - 5:10, 5:11, 5:18, 7:14, 34:3, 34:4, 38:11, 38:22 case-by-case [1] - 5:11 Cellar [1] - 48:2 CEO [1] - 11:13 certain [2] - 22:10, 39:5 certainly [3] - 21:6, 42:15, 42:18 certify [2] - 46:9, 46:13 chain [1] - 35:20 Chairman [2] - 10:3, 39:15 CHAIRMAN [129] - 1:14, 2:2, 2:9, 2:13, 2:18, 2:20, 2:23, 3:1, 3:8, 3:12, 4:4, 4:7, 4:10, 4:16, 7:4, 7:7,	C		

<p>28:25, 30:25, 32:13, 34:25, 36:7, 37:22, 37:24, 39:15, 39:17, 41:20, 41:24, 42:6, 42:9, 42:24, 44:13, 45:20</p> <p>COs [2] - 22:11, 23:3</p> <p>COUNTY [2] - 1:2, 46:5</p> <p>County [2] - 3:25, 17:1</p> <p>couple [2] - 5:2, 17:19</p> <p>Court [1] - 46:7</p> <p>court [1] - 5:15</p> <p>courts [1] - 34:10</p> <p>covers [1] - 26:9</p> <p>CR [1] - 16:24</p> <p>creativity [1] - 47:12</p> <p>cuddy [1] - 23:2</p> <p>Cuddy [1] - 23:17</p>	<p>11:12</p> <p>denied [2] - 8:10, 11:9</p> <p>deny [5] - 6:22, 10:22, 10:24, 11:20, 12:6</p> <p>Department [6] - 3:6, 5:22, 10:20, 25:6, 25:9, 25:18</p> <p>Department's [2] - 11:17, 12:7</p> <p>describes [1] - 47:15</p> <p>design [1] - 47:14</p> <p>determination [1] - 9:4</p> <p>determine [1] - 3:20</p> <p>determined [2] - 14:2, 27:22</p> <p>developed [2] - 13:15, 35:9</p> <p>dictate [1] - 11:7</p> <p>different [6] - 9:7, 10:10, 29:6, 39:6, 40:16, 44:11</p> <p>dimensional [4] - 6:12, 6:14, 6:16, 13:7</p> <p>directly [1] - 19:6</p> <p>Disapproval [7] - 7:8, 13:4, 13:17, 14:15, 29:19, 30:2, 36:17</p> <p>disclosure [1] - 17:3</p> <p>discuss [1] - 23:24</p> <p>discussion [6] - 26:2, 26:8, 26:16, 26:21, 39:1, 45:10</p> <p>dispute [1] - 38:18</p> <p>distributed [1] - 23:8</p> <p>District [4] - 3:23, 3:24, 16:24, 16:25</p> <p>district [8] - 13:16, 28:7, 28:8, 28:18, 32:1, 35:10, 35:17, 47:18</p> <p>districts [1] - 47:17</p> <p>documents [1] - 22:10</p> <p>double [1] - 34:16</p> <p>double-check [1] - 34:16</p> <p>down [6] - 6:18, 10:5, 21:17, 21:18, 33:20, 42:20</p> <p>drawn [3] - 38:17, 38:23, 39:4</p> <p>dwelling [1] - 32:3</p>	<p style="text-align: center;">E</p> <p>easily [1] - 40:22</p> <p>east [2] - 47:20, 47:23</p> <p>economically [1] - 32:11</p> <p>edge [1] - 48:1</p> <p>effect [2] - 13:23, 27:18</p> <p>egress [1] - 48:5</p> <p>either [1] - 10:21</p> <p>eliminating [1] - 47:22</p> <p>email [10] - 17:4, 17:5, 18:23, 18:25, 19:5, 19:8, 22:10, 22:20, 23:22, 47:1</p> <p>emailed [3] - 18:19, 19:20, 19:25</p> <p>emails [1] - 24:12</p> <p>employed [1] - 34:8</p> <p>empty [2] - 44:15, 44:18</p> <p>enacted [1] - 33:10</p> <p>Enforcement [10] - 4:25, 11:13, 11:16, 11:23, 12:7, 30:1, 32:22, 36:4, 36:18, 36:21</p> <p>enforcement's [1] - 14:21</p> <p>enhancement [1] - 40:25</p> <p>enlargement [1] - 40:25</p> <p>entirely [1] - 47:18</p> <p>entitled [1] - 5:14</p> <p>established [1] - 34:5</p> <p>events [1] - 33:13</p> <p>exacerbates [1] - 43:18</p> <p>except [1] - 33:14</p> <p>excuse [3] - 8:25, 31:16, 44:13</p> <p>exempt [2] - 40:15, 41:4</p> <p>exhibited [1] - 38:24</p> <p>Existing [1] - 14:22</p> <p>existing [7] - 8:21, 9:2, 13:4, 13:8, 14:18, 30:11, 35:2</p> <p>expand [2] - 41:2, 47:4</p> <p>expanded [2] - 43:11,</p>	<p>43:12</p> <p>expanding [1] - 43:1</p> <p>expansion [3] - 43:14, 43:18, 47:14</p> <p>expect [1] - 31:10</p> <p>extended [1] - 28:3</p> <p style="text-align: center;">F</p> <p>fact [2] - 17:19, 45:4</p> <p>false [1] - 39:5</p> <p>Family [1] - 3:23</p> <p>family [29] - 6:15, 13:5, 13:12, 14:19, 15:1, 15:4, 28:14, 28:15, 30:18, 30:20, 30:25, 31:1, 31:8, 31:11, 31:12, 31:15, 32:2, 32:3, 32:4, 32:5, 32:10, 33:14, 33:18, 35:8, 35:12, 35:14, 36:10, 36:11</p> <p>fault [1] - 10:9</p> <p>favor [6] - 2:9, 2:18, 3:8, 16:13, 25:21, 45:19</p> <p>features [1] - 47:14</p> <p>February [1] - 3:4</p> <p>fee [3] - 47:9, 47:10, 48:7</p> <p>feet [2] - 6:14, 12:19</p> <p>fence [1] - 48:5</p> <p>fencing [1] - 47:25</p> <p>file [2] - 19:14, 19:15</p> <p>fill [1] - 44:20</p> <p>filled [1] - 9:14</p> <p>fine [1] - 20:3</p> <p>Fire [2] - 1:7, 3:6</p> <p>first [7] - 6:22, 8:9, 9:8, 14:11, 28:5, 28:22, 38:19</p> <p>First [1] - 47:6</p> <p>fixed [1] - 40:22</p> <p>floor [3] - 47:19, 47:19, 47:25</p> <p>folks [2] - 2:2, 45:24</p> <p>follow [1] - 33:11</p> <p>following [1] - 47:1</p> <p>foregoing [1] - 46:10</p> <p>former [2] - 23:5</p> <p>forth [2] - 22:11</p> <p>forward [3] - 18:22, 19:7, 44:7</p>	<p>four [2] - 19:6, 43:7</p> <p>free [1] - 38:25</p> <p>free-thinkers [1] - 38:25</p> <p>Front [3] - 16:22, 44:18, 48:6</p> <p>front [13] - 7:8, 8:9, 9:18, 9:24, 12:15, 14:4, 21:7, 29:19, 40:11, 41:3, 41:6, 43:20, 43:21</p> <p>full [1] - 17:3</p> <p style="text-align: center;">G</p> <p>general [2] - 13:25, 27:20</p> <p>General [2] - 6:2, 27:6</p> <p>generally [1] - 31:9</p> <p>given [1] - 22:20</p> <p>goal [1] - 47:6</p> <p>goals [1] - 47:13</p> <p>God [1] - 41:13</p> <p>grade [1] - 48:3</p> <p>grants [1] - 41:12</p> <p>great [4] - 5:14, 20:12, 20:25, 42:6</p> <p>GREENPORT [1] - 1:1</p> <p>Greenport [11] - 1:8, 2:3, 3:6, 3:17, 3:20, 16:22, 19:19, 36:6, 44:11, 44:24, 47:1</p> <p>Greenporter [2] - 16:21, 47:4</p> <p>guess [2] - 26:11, 39:19</p> <p>guys [5] - 21:20, 22:4, 37:24, 42:16, 45:1</p> <p style="text-align: center;">H</p> <p>hand [2] - 5:10, 46:18</p> <p>handed [2] - 9:8, 23:10</p> <p>hands [1] - 41:1</p> <p>happy [2] - 20:7, 22:6</p> <p>harder [1] - 32:14</p> <p>head [1] - 15:24</p> <p>hear [1] - 10:14</p> <p>heard [2] - 20:4, 22:5</p> <p>Hearing [2] - 3:14, 16:19</p> <p>hearing [18] - 5:8,</p>
---	---	--	--	---

<p>10:8, 10:17, 11:3, 14:9, 16:11, 17:21, 17:25, 18:5, 21:8, 21:13, 21:24, 24:17, 24:21, 25:4, 26:5, 38:19, 42:14</p> <p>height [2] - 47:15, 47:19</p> <p>help [2] - 34:3, 44:20</p> <p>hereby [1] - 46:9</p> <p>hereunto [1] - 46:17</p> <p>higher [1] - 47:17</p> <p>historic [2] - 47:8, 47:17</p> <p>Historic [2] - 3:24, 16:25</p> <p>hold [2] - 17:21, 42:14</p> <p>Holdings [2] - 16:21, 26:3</p> <p>hollering [1] - 17:14</p> <p>home [1] - 33:18</p> <p>honestly [1] - 28:5</p> <p>hopefully [1] - 42:12</p> <p>Hotel [1] - 16:21</p> <p>hotel [4] - 47:5, 47:7, 47:20, 48:8</p> <p>Hotel's [1] - 47:4</p> <p>house [10] - 28:14, 31:11, 31:12, 32:5, 32:10, 35:12, 35:13, 35:14, 35:22, 36:10</p>	<p>30:14, 35:3</p> <p>infer [1] - 33:8</p> <p>informal [2] - 19:21, 19:24</p> <p>information [1] - 14:9</p> <p>instead [2] - 40:23, 47:7</p> <p>intended [1] - 47:7</p> <p>intent [6] - 14:1, 27:21, 33:6, 33:9, 43:4, 43:5</p> <p>interaction [1] - 22:14</p> <p>interest [1] - 17:3</p> <p>interested [2] - 4:1, 46:15</p> <p>interpret [3] - 5:5, 7:25, 29:11</p> <p>interpretation [30] - 3:19, 4:14, 4:17, 5:13, 5:21, 7:16, 7:22, 8:2, 8:6, 8:18, 9:1, 9:25, 10:8, 11:2, 11:14, 11:17, 11:21, 11:25, 12:8, 12:17, 13:19, 13:25, 26:17, 26:22, 27:1, 27:20, 29:10, 30:12, 33:17, 33:23</p> <p>interpretations [1] - 5:8</p> <p>interpreted [2] - 5:1, 15:9</p> <p>interpreting [3] - 13:22, 27:17, 29:7</p> <p>interrupt [1] - 44:14</p> <p>investment [1] - 45:1</p> <p>involves [1] - 34:9</p> <p>irrational [1] - 5:16</p> <p>issue [4] - 5:4, 11:12, 41:6, 41:14</p> <p>issues [2] - 8:13, 18:6</p> <p>Item [10] - 2:5, 2:14, 3:3, 3:13, 16:18, 26:1, 26:13, 26:18, 38:8, 45:17</p> <p>itself [2] - 29:9, 33:9</p>	<p>January [4] - 1:10, 41:13, 46:12, 46:18</p> <p>jimmy [1] - 16:7</p> <p>Jimmy [3] - 4:18, 10:11, 27:4</p> <p>JOHN [1] - 1:14</p> <p>John [5] - 17:18, 29:7, 34:20, 34:25, 35:20</p> <p>John's [1] - 36:25</p> <p>July [1] - 41:14</p>	<p>left [2] - 26:7, 34:19</p> <p>legislation [1] - 47:13</p> <p>legislative [1] - 14:1</p> <p>Legislative [1] - 27:21</p> <p>Legislature [3] - 29:8, 29:13, 33:10</p> <p>less [6] - 12:19, 13:11, 14:25, 30:17, 35:6, 47:16</p> <p>letter [8] - 40:3, 40:6, 41:17, 41:18, 41:19, 41:22, 42:4, 45:13</p> <p>lieu [1] - 47:9</p> <p>light [1] - 5:11</p> <p>likely [1] - 43:21</p> <p>line [3] - 38:17, 38:23, 39:4</p> <p>lines [1] - 40:11</p> <p>listen [4] - 10:15, 14:5, 14:6, 38:25</p> <p>loaded [1] - 3:16</p> <p>loading [1] - 47:5</p> <p>lobbying [1] - 40:10</p> <p>local [2] - 5:9, 5:12</p> <p>located [6] - 3:16, 3:22, 3:24, 16:22, 16:23, 16:25</p> <p>logical [3] - 33:13, 35:20, 47:17</p> <p>look [4] - 9:4, 9:24, 29:5, 29:12</p> <p>looking [1] - 8:13</p> <p>loud [2] - 21:4, 39:9</p> <p>Lucia [1] - 46:20</p> <p>LUCIA [1] - 46:7</p>	<p>Mayors [1] - 27:13</p> <p>mean [7] - 10:9, 12:20, 15:10, 33:3, 35:13, 36:17, 41:10</p> <p>meaning [8] - 13:23, 27:18, 28:3, 29:8, 30:6, 34:8, 34:12</p> <p>means [1] - 15:7</p> <p>meant [2] - 19:20, 19:23</p> <p>meet [3] - 6:14, 32:14, 47:13</p> <p>meeting [11] - 2:1, 2:4, 2:7, 2:16, 3:4, 8:4, 21:24, 21:25, 25:7, 25:8, 25:19</p> <p>member [2] - 22:15, 38:21</p> <p>MEMBER [89] - 1:15, 1:16, 1:17, 2:8, 2:10, 2:11, 2:12, 2:17, 2:19, 2:25, 3:7, 3:9, 3:10, 3:11, 6:4, 6:6, 8:12, 8:23, 8:25, 9:22, 10:3, 10:12, 11:19, 11:25, 12:2, 12:5, 12:11, 15:16, 16:12, 16:15, 16:16, 17:18, 18:20, 18:24, 19:1, 19:4, 19:16, 22:9, 22:16, 22:24, 23:12, 23:16, 23:18, 23:20, 24:4, 25:22, 25:23, 25:24, 26:10, 26:12, 29:5, 29:16, 29:20, 29:23, 30:4, 30:8, 30:22, 31:6, 31:16, 32:8, 32:24, 33:3, 33:17, 33:22, 33:25, 34:20, 34:22, 35:19, 36:8, 36:14, 36:22, 36:25, 37:8, 37:13, 37:19, 38:2, 38:4, 39:17, 42:9, 42:18, 43:24, 44:1, 44:3, 45:3, 45:7, 45:18, 45:20, 45:21, 45:22</p> <p>members [6] - 14:8, 17:9, 19:6, 22:12, 38:21, 38:25</p> <p>Members [4] - 18:21, 31:23, 47:1, 47:3</p>
<p>I</p> <p>idea [2] - 39:20, 39:25</p> <p>ideas [1] - 40:21</p> <p>implication [2] - 12:12, 28:4</p> <p>important [1] - 5:12</p> <p>improve [1] - 40:22</p> <p>improved [1] - 40:14</p> <p>improvements [1] - 3:21</p> <p>IN [1] - 46:17</p> <p>included [2] - 20:10, 26:15</p> <p>Incorporated [3] - 3:15, 26:23, 36:6</p> <p>increased [1] - 47:9</p> <p>indicates [2] - 8:17, 31:9</p> <p>individually [6] - 13:8, 14:22, 18:21, 19:25,</p>	<p>J</p> <p>Jack [3] - 33:16, 38:1, 42:16</p> <p>JACK [1] - 1:16</p> <p>James [1] - 5:19</p>	<p>K</p> <p>Kapell [1] - 23:5</p> <p>Kaplan [6] - 3:13, 3:15, 3:16, 5:20, 26:22, 36:5</p> <p>keep [6] - 10:5, 21:22, 21:24, 21:25, 22:6, 43:1</p> <p>kept [1] - 24:22</p> <p>kicked [2] - 9:9, 9:13</p> <p>kind [7] - 20:4, 28:13, 31:19, 40:13, 41:16, 43:14, 45:12</p> <p>knows [1] - 40:18, 41:13</p>	<p>L</p> <p>labeled [2] - 9:11, 48:2</p> <p>lack [1] - 43:18</p> <p>land [8] - 6:10, 7:1, 13:10, 14:24, 27:8, 30:16, 32:1, 35:5</p> <p>language [9] - 13:21, 14:2, 27:16, 27:22, 27:23, 29:11, 29:12, 33:8, 42:13</p> <p>last [4] - 4:9, 8:3, 11:1, 19:3</p> <p>laughter [2] - 21:19, 42:5</p> <p>Laughter [2] - 24:16, 37:4</p> <p>Law [6] - 6:2, 6:3, 13:20, 27:6</p> <p>law [6] - 5:5, 5:9, 5:10, 27:12, 34:3, 34:4</p> <p>laws [1] - 27:25</p> <p>least [2] - 25:6, 25:18</p> <p>leave [4] - 22:3, 22:7, 24:3, 24:6</p>	<p>M</p> <p>mailboxes [1] - 23:9</p> <p>mailings [2] - 4:14, 4:17</p> <p>Main [1] - 44:18</p> <p>maintain [1] - 47:8</p> <p>maintaining [1] - 47:5</p> <p>makers [1] - 20:23</p> <p>manner [1] - 6:11</p> <p>Map [2] - 3:25, 17:2</p> <p>market [2] - 31:3, 47:10</p> <p>marriage [1] - 46:15</p> <p>matched [1] - 36:14</p> <p>matter [1] - 46:16</p> <p>Mayor [2] - 23:5, 44:19</p>

<p>mention [1] - 39:10 met [1] - 47:22 might [9] - 17:12, 18:13, 26:19, 30:11, 30:12, 38:10, 40:15, 41:7, 43:20 mind [6] - 28:22, 33:7, 34:13, 37:24, 39:1, 39:2 minutes [3] - 2:6, 2:15, 20:17 misunderstood [1] - 7:20 month [6] - 11:1, 11:7, 18:10, 18:19, 19:3, 20:7 months [1] - 24:22 moratorium [3] - 45:4, 45:11, 47:10 most [1] - 27:23 motion [19] - 2:5, 2:14, 3:3, 16:11, 21:14, 25:3, 26:2, 26:17, 26:21, 36:3, 36:4, 36:23, 36:24, 36:25, 37:7, 37:10, 37:20, 45:16, 45:17 moved [6] - 2:7, 2:16, 3:6, 25:19, 36:6, 45:17 MR [54] - 2:22, 4:3, 5:19, 6:5, 6:7, 7:6, 7:10, 7:24, 8:22, 8:24, 9:6, 10:2, 10:4, 11:4, 11:8, 12:13, 13:2, 14:10, 14:16, 15:3, 15:8, 15:11, 15:15, 15:17, 15:21, 15:24, 16:2, 16:9, 16:14, 17:13, 22:5, 22:19, 24:9, 25:20, 26:9, 26:11, 28:25, 30:19, 30:25, 32:11, 32:13, 34:25, 35:25, 36:7, 37:15, 37:22, 37:24, 38:7, 39:15, 41:20, 41:24, 42:6, 42:24, 44:13 MS [23] - 18:6, 18:8, 18:14, 18:18, 18:22, 18:25, 19:12, 19:18, 19:23, 20:2, 20:6, 20:12, 20:16, 20:19,</p>	<p>20:23, 20:25, 21:3, 21:9, 21:14, 21:20, 25:14, 36:24, 37:7 Multifamily [1] - 47:16 Municipal [1] - 27:13 must [9] - 5:9, 5:11, 13:23, 26:6, 27:17, 28:1, 34:6, 44:22</p>	<p>17:2</p>	<p>33:14, 33:18, 35:8, 35:12, 35:14 ones [3] - 23:20, 23:21, 40:11 open [9] - 21:23, 21:25, 22:1, 22:7, 24:22, 26:5, 28:24, 30:12, 31:2 opinion [3] - 30:13, 41:9, 42:17 opinions [3] - 5:4, 19:21, 19:25 opportunity [1] - 12:9 opposite [1] - 28:13 order [1] - 2:1 ordinance [2] - 29:9, 43:23 ordinances [1] - 44:3 ordinary [1] - 28:2 original [2] - 37:7, 43:4 originally [1] - 7:11 otherwise [2] - 7:1, 27:9 outcome [1] - 46:16 outline [2] - 13:21, 27:12 outside [2] - 22:15, 22:17 overturned [1] - 5:15 own [2] - 5:13, 22:16 owned [4] - 13:8, 14:22, 30:14, 35:3 ownership [4] - 13:9, 14:23, 30:15, 35:4</p>	<p>Parking [1] - 44:25 part [5] - 12:15, 17:24, 19:16, 22:13, 23:13 partially [1] - 43:16 particular [1] - 33:7 particularly [2] - 29:7, 39:22 parties [1] - 46:14 Patchogue [2] - 45:6, 45:7 patently [1] - 39:5 PAUL [1] - 1:20 pavement [1] - 43:2 pay [1] - 47:7 peak [1] - 47:19 people [5] - 17:22, 24:13, 24:24, 33:6, 42:24 per [3] - 8:7, 47:7, 47:7 perhaps [5] - 18:13, 24:25, 39:6, 42:14, 44:10 permitted [9] - 28:8, 32:2, 32:4, 32:6, 35:15, 35:16, 35:17, 36:11 permitting [1] - 31:6 person's [1] - 39:10 personal [1] - 24:13 Phillips [4] - 23:22, 24:1, 39:18, 39:20 phone [1] - 17:17 phrase [2] - 33:13 physical [1] - 6:12 piece [1] - 28:11 pieces [1] - 29:6 pile [1] - 22:24 piles [1] - 22:22 pin [1] - 26:4 pitched [2] - 47:18, 48:1 place [2] - 40:17, 44:11 places [3] - 43:8, 43:10, 43:11 plain [4] - 13:23, 27:18, 29:13, 30:6 plainer [1] - 30:24 planning [1] - 27:12 Planning [5] - 13:20, 40:4, 40:9, 41:9, 43:21</p>
	<p>N</p>	<p>O</p>		
	<p>natural [2] - 27:23, 34:7 need [5] - 20:14, 39:24, 39:25, 43:9 needed [1] - 43:7 neighborhood [1] - 47:21 never [1] - 43:4 new [7] - 10:7, 10:8, 27:25, 45:4, 47:24, 48:8 NEW [2] - 1:2, 46:3 New [11] - 1:8, 3:17, 5:3, 6:1, 6:8, 13:19, 14:12, 16:23, 27:11, 27:13, 46:8 newspaper [1] - 4:13 next [7] - 3:3, 11:7, 20:7, 21:23, 21:25, 25:7, 25:8 night [5] - 23:1, 23:6, 23:9 nobody [4] - 23:10, 23:11, 38:22, 38:23 nobody's [1] - 38:23 normally [1] - 21:5 north [2] - 47:20, 47:23 Notary [1] - 46:8 note [1] - 5:12 Noted [1] - 45:25 Notice [9] - 7:4, 7:7, 13:3, 13:17, 14:14, 17:1, 29:19, 30:1, 36:17 notice [3] - 4:2, 4:4, 4:10 noticed [1] - 4:13 November [1] - 2:15 number [2] - 17:17, 18:1 Number [2] - 3:25,</p>	<p>O's [1] - 22:19 objecting [1] - 9:12 obvious [1] - 27:24 obviously [4] - 26:6, 40:5, 40:19, 41:3 OF [6] - 1:1, 1:2, 1:4, 46:3, 46:5 offered [1] - 41:9 Officer [5] - 4:25, 30:1, 32:23, 36:18, 36:21 Officer's [3] - 11:13, 11:24, 36:5 Official [1] - 19:11 official [4] - 5:6, 19:21, 19:24, 23:5 Officials [1] - 27:14 older [1] - 47:6 OLINKIEWICZ [27] - 4:3, 5:19, 6:5, 6:7, 7:6, 7:10, 7:24, 8:22, 8:24, 9:6, 10:2, 10:4, 11:4, 11:8, 12:13, 13:2, 14:10, 14:16, 15:3, 15:11, 15:21, 15:24, 16:2, 16:9, 32:11, 35:25, 38:7 Olinkiewicz [3] - 5:19, 26:22, 31:2 Olinkiewicz' [1] - 26:8 one [37] - 3:1, 6:7, 8:15, 13:5, 13:12, 13:17, 14:19, 15:1, 15:4, 17:4, 22:11, 24:12, 27:14, 28:15, 28:21, 30:18, 30:25, 31:8, 31:11, 31:12, 32:2, 32:3, 32:10, 33:14, 33:18, 34:20, 35:8, 35:12, 35:14, 37:8, 38:15, 39:7, 39:15, 47:7, 47:7, 48:8 One [2] - 3:5, 3:22 one-family [19] - 13:5, 13:12, 14:19, 15:1, 15:4, 28:15, 30:18, 30:25, 31:8, 31:12, 32:2, 32:3, 32:10,</p>	<p>P</p>	
			<p>p.m [4] - 1:11, 2:1, 3:5, 45:25 page [1] - 4:9 PALLAS [9] - 1:20, 4:5, 4:9, 4:15, 19:13, 25:12, 25:15, 34:16, 42:2 Pallas [1] - 44:23 panels [1] - 47:25 parking [15] - 39:24, 40:15, 40:20, 41:6, 42:19, 43:7, 43:9, 43:19, 47:5, 47:7, 47:9, 47:10, 47:11, 47:13, 48:5</p>	

<p>plans [1] - 28:23</p> <p>plants [1] - 41:12</p> <p>plate [2] - 25:1, 41:12</p> <p>pointed [1] - 32:14</p> <p>portion [3] - 10:19, 31:24, 32:21</p> <p>portions [1] - 40:12</p> <p>positive [1] - 38:20</p> <p>possible [3] - 26:2, 26:17, 26:21</p> <p>power [1] - 41:12</p> <p>pre [1] - 38:22</p> <p>pre-decided [1] - 38:22</p> <p>precedence [1] - 28:21</p> <p>prepared [3] - 24:18, 24:19, 24:21</p> <p>prescribed [5] - 13:11, 14:25, 30:17, 31:7, 35:7</p> <p>preserve [1] - 47:8</p> <p>pretty [4] - 18:8, 22:5, 38:18, 39:4</p> <p>previous [1] - 28:12</p> <p>primarily [2] - 14:1, 27:21</p> <p>print [1] - 5:25</p> <p>privilege [1] - 42:25</p> <p>privy [1] - 23:25</p> <p>problem [4] - 35:21, 38:7, 42:24, 43:10</p> <p>procedural [1] - 8:13</p> <p>proceed [1] - 40:2</p> <p>proceedings [1] - 46:11</p> <p>progress [1] - 10:23</p> <p>progressed [2] - 28:16, 44:10</p> <p>progressing [1] - 7:21</p> <p>prohibited [2] - 7:2, 27:9</p> <p>project [1] - 28:23</p> <p>Prokop [3] - 39:18, 40:3, 41:21</p> <p>prolonging [1] - 24:14</p> <p>promise [1] - 20:19</p> <p>properly [2] - 26:19, 38:10</p> <p>property [12] - 3:15, 3:22, 3:23, 6:13, 6:19, 16:22, 16:23, 16:24, 28:11, 40:14,</p>	<p>40:23, 47:13</p> <p>proposed [3] - 3:21, 30:19, 48:1</p> <p>protected [1] - 41:2</p> <p>Provide [1] - 44:25</p> <p>provided [2] - 13:13, 35:8</p> <p>Provided [1] - 13:14</p> <p>providing [1] - 47:7</p> <p>provision [2] - 9:2, 10:1</p> <p>provisions [1] - 5:12</p> <p>Public [4] - 3:14, 16:19, 17:1, 46:8</p> <p>public [33] - 4:1, 4:4, 4:10, 4:19, 4:20, 10:8, 10:16, 10:17, 11:2, 14:7, 14:8, 16:5, 16:11, 17:24, 18:4, 18:5, 19:3, 19:17, 20:11, 20:14, 21:8, 21:13, 21:24, 23:13, 24:17, 24:19, 24:21, 25:4, 26:5, 38:19, 40:12, 42:14, 45:14</p> <p>purpose [2] - 7:1, 27:8</p> <p>put [10] - 8:9, 9:22, 19:2, 21:17, 21:18, 25:9, 26:4, 31:18, 31:20, 43:3</p>	<p>39:9, 45:2</p> <p>reads [1] - 6:16</p> <p>really [2] - 16:7, 41:21</p> <p>reapplied [1] - 9:11</p> <p>REARDON [10] - 1:16, 2:11, 2:19, 3:10, 6:4, 16:16, 25:24, 33:17, 38:2, 45:21</p> <p>reason [2] - 17:11, 17:13</p> <p>reasonably [1] - 34:14</p> <p>receive [1] - 18:18</p> <p>received [2] - 18:16, 24:12</p> <p>receiving [1] - 48:7</p> <p>record [9] - 19:3, 19:17, 20:11, 21:11, 21:23, 21:25, 22:1, 22:13, 23:13</p> <p>redundant [1] - 36:17</p> <p>referred [2] - 23:20, 23:21</p> <p>reflects [1] - 30:2</p> <p>regarding [3] - 3:14, 16:20, 47:4</p> <p>REGULAR [1] - 1:5</p> <p>regular [1] - 2:4</p> <p>regulated [1] - 42:20</p> <p>regulation [1] - 5:13</p> <p>regulations [4] - 7:3, 13:16, 27:10, 35:10</p> <p>rejected [2] - 13:24, 27:19</p> <p>related [1] - 46:13</p> <p>relating [1] - 22:11</p> <p>relief [1] - 32:7</p> <p>remember [1] - 42:1</p> <p>remind [1] - 24:18</p> <p>renters [1] - 44:20</p> <p>repeat [1] - 14:10</p> <p>Reporter [1] - 46:7</p> <p>represented [1] - 6:1</p> <p>request [7] - 19:19, 24:23, 25:5, 25:8, 25:17, 26:17, 47:4</p> <p>requested [2] - 16:20, 21:12</p> <p>requesting [1] - 17:8</p> <p>requests [1] - 5:8</p> <p>require [4] - 3:21, 36:10, 48:3, 48:8</p> <p>requirements [4] - 6:12, 6:15, 27:25,</p>	<p>32:15</p> <p>requires [2] - 35:18, 48:3</p> <p>residence [18] - 13:6, 13:13, 14:20, 15:2, 15:4, 30:18, 30:20, 30:25, 31:1, 31:8, 32:3, 32:5, 33:14, 33:15, 35:8, 35:13, 35:14, 36:11</p> <p>residential [11] - 28:6, 28:7, 28:8, 28:17, 28:18, 31:1, 31:2, 31:10, 31:19, 31:20, 47:20</p> <p>resort [2] - 34:6</p> <p>respect [1] - 29:7</p> <p>response [1] - 41:7</p> <p>Response [1] - 16:6</p> <p>restaurant [1] - 43:9</p> <p>restaurants [1] - 45:4</p> <p>Retail [1] - 16:24</p> <p>review [1] - 5:9</p> <p>road [2] - 10:6, 33:21</p> <p>ROBERT [1] - 1:19</p> <p>roll [1] - 37:22</p> <p>rolled [1] - 6:19</p> <p>roof [3] - 47:18, 47:25, 48:1</p> <p>room [2] - 34:10, 40:17</p> <p>row [1] - 18:10</p> <p>rule [3] - 13:25, 27:20, 34:5</p> <p>rules [3] - 13:18, 26:25, 29:6</p> <p>ruling [1] - 48:7</p> <p>run [1] - 47:12</p>	<p>15:13, 15:18, 15:22, 15:25, 16:4, 16:7, 16:10, 16:13, 16:17, 17:16, 18:3, 18:7, 18:12, 18:17, 19:2, 19:15, 19:22, 20:1, 20:3, 20:9, 20:13, 20:18, 20:21, 20:24, 21:2, 21:5, 21:10, 21:16, 21:21, 22:8, 22:14, 22:17, 22:23, 22:25, 23:14, 23:17, 23:19, 23:23, 24:5, 24:10, 24:17, 25:16, 25:21, 25:25, 26:14, 29:2, 29:15, 29:18, 29:21, 29:24, 30:5, 30:10, 30:21, 30:23, 31:4, 31:14, 31:22, 32:9, 32:17, 32:25, 33:16, 33:24, 34:2, 34:18, 34:21, 34:23, 35:2, 35:21, 36:2, 36:13, 36:16, 37:2, 37:5, 37:11, 37:14, 37:17, 37:20, 37:23, 38:1, 38:3, 38:5, 38:8, 39:16, 40:8, 41:23, 41:25, 42:3, 42:8, 42:11, 43:15, 43:25, 44:2, 44:5, 44:16, 45:6, 45:9, 45:19, 45:23</p> <p>sand [2] - 38:18, 38:23</p> <p>satisfied [4] - 20:9, 20:15, 20:16, 23:13</p> <p>saw [3] - 22:21, 28:5, 28:22</p> <p>schedule [1] - 3:3</p> <p>scheduled [3] - 25:7, 25:19</p> <p>scratch [1] - 43:7</p> <p>screaming [1] - 17:14</p> <p>se [1] - 8:7</p> <p>searching [1] - 17:9</p> <p>second [9] - 2:8, 2:17, 3:7, 16:12, 25:20, 36:7, 36:8, 37:21, 45:18</p> <p>section [6] - 8:20, 31:25, 33:8, 33:9, 33:12, 47:16</p> <p>Section [2] - 3:19,</p>
	Q			
	<p>quite [2] - 38:14, 42:23</p>			
	R			
	<p>R-2 [2] - 3:22, 31:10</p> <p>Randy [6] - 18:18, 19:18, 19:22, 21:17, 47:1, 48:11</p> <p>rather [2] - 5:5, 23:23</p> <p>read [34] - 5:2, 10:17, 10:18, 12:24, 12:25, 13:1, 14:12, 20:14, 20:20, 20:21, 20:24, 23:6, 23:11, 26:24, 26:25, 27:3, 27:11, 27:15, 27:25, 28:9, 29:6, 29:25, 30:10, 34:4, 34:23, 36:22, 37:10, 38:11, 38:14,</p>			
			S	
			<p>safety [1] - 48:5</p> <p>Saladino [1] - 37:8</p> <p>SALADINO [129] - 1:14, 2:2, 2:9, 2:13, 2:18, 2:20, 2:23, 3:1, 3:8, 3:12, 4:4, 4:7, 4:10, 4:16, 7:4, 7:7, 7:20, 10:11, 10:13, 11:5, 11:11, 11:22, 12:1, 12:3, 12:6, 12:23, 13:3, 14:14, 14:18, 15:6, 15:9,</p>	

<p>8:19 see [4] - 19:16, 35:11, 35:22, 40:4 seem [2] - 25:1, 33:5 seminars [1] - 27:14 send [3] - 40:3, 41:19, 41:22 sense [3] - 27:24, 32:12, 47:17 sent [8] - 7:12, 10:5, 10:9, 18:20, 19:5, 40:6, 47:1 separated [4] - 13:9, 14:23, 30:15, 35:4 separately [5] - 13:9, 14:23, 22:21, 30:14, 35:3 sequence [1] - 33:13 session [2] - 17:23, 39:17 SESSION [1] - 1:5 set [2] - 46:17, 47:25 sewers [1] - 41:12 shall [4] - 13:14, 15:7, 15:11, 35:9 shall" [1] - 15:10 Shook [1] - 15:24 show [1] - 9:20 shown [1] - 18:11 side [5] - 30:3, 47:20, 47:23, 47:23 sign [3] - 44:22, 44:23, 45:2 significance [1] - 34:7 simply [1] - 17:19 Sincerely [1] - 48:10 single [2] - 36:10, 36:11 single-family [2] - 36:10, 36:11 Sixth [1] - 19:19 size [1] - 47:21 small [12] - 8:21, 9:2, 9:25, 11:10, 12:17, 12:18, 13:5, 13:8, 14:18, 14:22, 30:11, 35:2 solar [1] - 47:25 someone [3] - 28:14, 38:15, 39:3 someplace [2] - 44:22, 44:24 sometimes [2] -</p>	<p>43:19, 43:20 somewhere [1] - 38:15 sorry [4] - 18:7, 18:13, 18:24, 19:22 space [2] - 47:11, 47:19 special [1] - 47:12 specific [3] - 28:10, 28:11 specify [1] - 48:7 spots [1] - 47:5 SS [1] - 46:4 staff [1] - 22:21 Staff [1] - 47:1 start [3] - 10:6, 10:7, 30:8 started [1] - 39:19 STATE [2] - 1:2, 46:3 State [7] - 5:3, 6:1, 6:8, 13:20, 14:12, 27:12, 46:8 statement [1] - 39:11 Station [2] - 1:7, 3:5 statute [4] - 13:21, 27:16, 33:12, 36:15 statutes [3] - 14:1, 27:21, 34:5 statutory [2] - 43:17, 43:19 stay [1] - 12:25 still [2] - 26:5, 28:19 stipulate [1] - 9:15 store [2] - 31:18, 43:6 stores [4] - 44:15, 44:17, 44:19, 44:20 stories [1] - 47:16 strangled [1] - 40:20 Street [8] - 1:7, 16:22, 19:19, 44:18, 48:5, 48:6, 48:11 street [1] - 47:8 structures [1] - 47:18 stuff [2] - 22:24, 44:21 submitted [1] - 22:10 substitute [1] - 40:24 sudden [1] - 43:11 Suffolk [2] - 3:24, 17:1 SUFFOLK [2] - 1:2, 46:5 suggest [1] - 36:9 suggested [1] - 17:20 suggestions [1] -</p>	<p>47:22 summer [2] - 40:18, 40:19 superfluous [2] - 13:24, 27:19 supplied [4] - 23:2, 23:3, 23:4, 23:15 support [4] - 21:14, 29:3, 47:13, 48:4 supports [1] - 33:18 supposed [1] - 7:14</p> <p style="text-align: center;">T</p> <p>tables [1] - 43:3 TASKER [7] - 1:17, 2:8, 2:12, 2:17, 2:25, 3:7, 3:11, 6:6, 8:12, 8:23, 8:25, 9:22, 10:3, 10:12, 11:19, 11:25, 12:2, 12:5, 12:11, 15:16, 16:12, 16:15, 17:18, 18:20, 18:24, 19:1, 19:4, 19:16, 22:9, 22:16, 23:12, 23:16, 23:18, 23:20, 24:4, 25:22, 26:10, 26:12, 29:5, 29:16, 29:20, 29:23, 30:4, 30:8, 30:22, 31:6, 31:16, 32:8, 32:24, 33:3, 33:22, 33:25, 34:20, 34:22, 35:19, 36:8, 36:14, 36:22, 36:25, 37:8, 37:13, 37:19, 38:4, 42:18, 43:24, 44:1, 44:3, 45:3, 45:7, 45:18, 45:22 Tax [2] - 3:25, 17:2 tempting [1] - 47:9 terminate [1] - 18:1 terms [3] - 39:22, 40:7, 42:21 THAT [1] - 46:10 THE [1] - 1:21 therefore [1] - 47:20 thinkers [1] - 38:25 thinking [3] - 29:1, 29:4, 41:17 third [2] - 9:14, 18:10 Third [1] - 1:7 thoughts [2] - 6:21,</p>	<p>45:12 three [7] - 2:23, 3:1, 9:6, 9:20, 10:10, 24:12, 24:21 TO [1] - 1:21 today [1] - 17:21 tonight [9] - 7:23, 10:14, 11:7, 11:12, 17:7, 18:5, 20:4, 24:20, 38:24 tonight's [1] - 42:6 took [2] - 5:24, 41:20 top [1] - 47:25 total [5] - 13:10, 14:24, 30:16, 35:6, 47:24 Town [1] - 6:2 track [1] - 33:11 tracts [4] - 13:10, 14:24, 30:15, 35:4 traditional [1] - 47:21 training [1] - 27:14 transcription [1] - 46:11 true [1] - 46:11 trust [1] - 27:3 Trust [2] - 16:21, 26:3 Trustee [5] - 23:22, 24:1, 39:18, 39:19, 39:20 Trustees [2] - 22:12, 22:15 trying [1] - 24:25 turn [2] - 6:18, 16:3 turned [1] - 42:22 Two [1] - 3:23 two [17] - 6:15, 22:1, 24:2, 24:12, 25:13, 25:14, 25:15, 28:14, 30:20, 31:1, 31:11, 31:15, 32:4, 32:5, 40:11, 48:8 Two-Family [1] - 3:23 two-family [8] - 6:15, 28:14, 30:20, 31:1, 31:11, 31:15, 32:4, 32:5 type [2] - 8:16, 8:17</p> <p style="text-align: center;">U</p> <p>unambiguous [2] - 13:22, 27:17</p>	<p>unavailable [2] - 17:6, 17:7 under [6] - 6:21, 13:18, 26:12, 31:12, 31:13, 33:15 understood [1] - 8:3 unfettered [1] - 43:17 unit [1] - 47:7 units [4] - 47:5, 47:24, 48:8 unless [2] - 5:15, 47:17 unnecessarily [1] - 24:14 unreasonable [1] - 5:15 up [12] - 4:19, 8:4, 18:11, 20:8, 22:3, 28:24, 39:1, 39:24, 42:13, 43:2, 47:10 upstairs [1] - 47:19 useable [1] - 47:19</p> <p style="text-align: center;">V</p> <p>value [1] - 47:10 variance [59] - 3:21, 5:23, 5:24, 5:25, 6:1, 6:9, 6:17, 6:18, 6:20, 6:22, 6:23, 6:24, 7:9, 7:11, 7:13, 7:15, 7:17, 7:18, 7:22, 7:25, 8:1, 8:5, 8:9, 8:10, 8:11, 8:14, 9:5, 9:9, 9:10, 9:11, 9:13, 9:19, 10:23, 10:24, 10:25, 11:9, 12:4, 12:10, 12:21, 14:11, 14:17, 27:2, 27:7, 28:12, 28:16, 28:19, 29:1, 31:3, 31:21, 32:7, 32:15, 32:16, 33:20, 33:25, 35:18, 38:6, 43:14, 48:3 variances [4] - 16:20, 26:3, 27:5, 28:20 viewed [1] - 5:11 VILLAGE [2] - 1:1, 1:20 village [3] - 47:8, 47:12, 47:18 Village [29] - 2:3, 3:20, 6:2, 7:16, 8:7, 8:8,</p>
--	--	--	---	--

<p>8:19, 9:7, 9:16, 13:20, 19:7, 19:9, 19:10, 22:12, 27:6, 34:24, 39:18, 40:16, 40:18, 40:20, 41:10, 41:11, 41:18, 42:13, 45:11, 45:13, 47:1, 47:9, 48:7</p> <p>visible [1] - 48:1</p> <p>vote [13] - 2:13, 2:20, 2:24, 3:12, 11:15, 16:17, 21:17, 25:25, 37:18, 37:21, 37:25, 38:5, 45:23</p>	<p>34:7, 34:19, 40:23, 40:24</p> <p>worded [3] - 4:21, 4:24, 32:22</p> <p>wording [1] - 36:9</p> <p>words [5] - 13:23, 17:10, 27:18, 28:2, 30:6</p> <p>worker [1] - 47:7</p> <p>workers [1] - 48:8</p> <p>wow [1] - 26:1</p> <p>writing [3] - 25:5, 25:9, 25:17</p> <p>written [9] - 18:15, 21:23, 21:25, 22:1, 30:2, 33:19, 34:15, 35:12, 36:18</p> <p>wrote [3] - 30:1, 33:6, 33:7</p>
W	Y
<p>WADE [18] - 18:14, 18:18, 18:22, 18:25, 19:12, 19:18, 19:23, 20:2, 20:6, 20:12, 20:16, 20:19, 20:23, 20:25, 21:3, 21:9, 21:14, 21:20</p> <p>Wade [4] - 18:18, 19:18, 47:1, 48:11</p> <p>Wade's [1] - 19:5</p> <p>wait [1] - 10:18</p> <p>waiver [1] - 47:13</p> <p>waivers [1] - 47:10</p> <p>walkable [1] - 47:8</p> <p>wall [1] - 47:8</p> <p>wants [1] - 14:7</p> <p>watching [2] - 24:25, 39:11</p> <p>weeks [4] - 22:2, 25:13, 25:14, 25:15</p> <p>weigh [1] - 42:15</p> <p>weighed [1] - 28:21</p> <p>weight [2] - 11:2, 28:21</p> <p>welcome [1] - 6:5</p> <p>WHEREOF [1] - 46:17</p> <p>whichever [1] - 47:16</p> <p>whole [2] - 10:7, 10:8</p> <p>wide [2] - 6:14, 12:19</p> <p>width [7] - 13:11, 14:25, 30:17, 31:13, 33:15, 35:6, 36:12</p> <p>winter [1] - 40:19</p> <p>wish [1] - 18:9</p> <p>WITNESS [1] - 46:17</p> <p>word [7] - 27:4, 33:12,</p>	<p>yard [1] - 43:2</p> <p>YORK [2] - 1:2, 46:3</p> <p>York [11] - 1:8, 3:17, 5:3, 6:1, 6:8, 13:20, 14:12, 16:23, 27:11, 27:13, 46:9</p>
Z	
	<p>ZBA [5] - 5:9, 5:13, 8:14, 27:24, 48:7</p> <p>ZBAs [1] - 5:4</p> <p>zone [2] - 28:15, 47:5</p> <p>zoning [7] - 5:9, 5:13, 7:3, 15:7, 27:10, 27:12, 28:1</p> <p>ZONING [2] - 1:4, 1:19</p> <p>Zoning [22] - 2:3, 2:6, 2:15, 3:4, 6:10, 6:25, 13:20, 15:11, 17:23, 19:6, 26:18, 27:7, 33:6, 38:9, 38:17, 38:24, 39:3, 39:7, 40:4, 40:9, 42:21, 47:3</p>