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2                   PROCEEDINGS HELD BEFORE THE ZONING BOARD OF  
3 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK  
On March 2, 2016, COMMENCING AT APPROXIMATELY  
7:15 P.M.

4

5                   March 2, 2016  
6                   Brighton Town Hall  
7                   2300 Elmwood Avenue  
Rochester, New York 14618

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## PRESENT:

9                   DENNIS MIETZ, CHAIRMAN  
10                  CHRISTINE CORRADO  
11                  JEANNE DALE  
12                  ANDREA TOMPKINS WRIGHT  
13                  CANDICE BAKER LEIT, ESQ.

14                  DAVID DOLLINGER, ESQ.  
15                  Town Attorney

16                  RICK DISTEFANO  
17                  Secretary

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

25

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1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

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

5                   Rick, was the meeting properly advertised?

6                   MR. DISTEFANO: Yes, Mr. Chairman. It was  
7 advertised in the Brighton Pittsford Post on February  
8 25th, 2016.

9                   MR. MIETZ: Okay. Will you please call  
10 the roll.

11                  MR. DISTEFANO: Please let the record show  
12 that Ms. Schwartz is not present.

13                  MR. MIETZ: Okay. Whenever you're ready,  
14 then please read the first application.

15 2A-03-16 Application of Jack Siegrist, architect, and  
16 James Cerone and Sharon Bidwell-Cerone, owners of  
17 property located on East Avenue (between 2940 and 2980  
18 East Avenue) known as Tax ID #138.05-1-70, for an Area  
19 Variance from Section 205-2 to allow a single family  
20 house to be constructed with a 9 ft. side setback  
21 (north side) in lieu of the minimum 16.5 ft. required  
22 by code. All as described on application and plans on  
23 file. TABLED AT THE FEBRUARY 3, 2016 MEETING - PUBLIC  
24 HEARING REMAINS OPEN - POSTPONED TO THE APRIL 6, 2016  
25 MEETING AT APPLICANTS' REQUEST

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   MR. DISTEFANO: Just in case anybody's  
3 here for application 2A-03-16 -- this is a new house  
4 to be constructed at 2960 East Avenue -- that  
5 application has been postponed and will be heard at  
6 the April 6th meeting.

7                   3A-01-16 Application of Michael Mendora, owner of  
8 property located at 9 Far View Hill Road, for an Area  
9 Variance from Section 209-10 to allow livable floor  
10 area to increase from 3,813 sf to 3,986 sf, after  
11 construction of a second floor addition, where a  
12 maximum 3,515 sf of livable floor area is allowed by  
13 code. All as described on application and plans on  
14 file.

15                  MR. PEACOCK: Good evening. My name is  
16 Randall Peacock. My office is at 339 East Avenue in  
17 the city of Rochester, New York. I'm here tonight --  
18 Rick, it's Mendosa.

19                  MR. DISTEFANO: Oh. I'm sorry.

20                  MR. PEACOCK: Mendosa, yes.

21                  I'm here this evening on behalf of my  
22 client, Mike Mendosa.

23                  They bought the property at 9 Far View  
24 Hill 6 years ago, 2009 -- 7 years ago, 2009. It's a  
25 fairly large house. It sits up on the hill at the end

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   of the road.

3                   Shortly after buying it, they realized  
4                   there were quite some issues with ice damming and roof  
5                   leakage on the rear of the house. There was a  
6                   first-floor 14-foot-by-14 -- or 12-by-14-foot porch  
7                   room over the basement that the previous owners had  
8                   modified the roof and installed a deck over that roof  
9                   so that you can't get to the actual roofing without  
10                  tearing the deck apart to get in there. That freezes  
11                  and thaws in there. It's torn the roof apart and it  
12                  leaks excessively.

13                  And then on the second floor, they have  
14                  some issues with ice damming that occurs on the rear  
15                  wall of the house.

16                  What they would like to do in the process  
17                  of repairing and resolving this leakage and  
18                  ice-damming process is to actually construct a room  
19                  over the top of this first-floor space. We'd be  
20                  looking on the southeast corner of the house. It's at  
21                  the rear side of the house, so it's not visible from  
22                  the street or from the circle location. That would  
23                  increase the area of the house by about 176 square  
24                  feet I believe it is, something around that range.

25                  The room -- I gave you a table, just a

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2 breakdown, of the LFAs for the neighborhood.

3                   This currently is the second largest house  
4 in the neighborhood. And the 7 Far View Hills at  
5 present has a 110-percent -- or 110.7-percent cover of  
6 the permitted LFA, and we are -- the house currently  
7 stands at 108.5 percent of the permitted LFA. With  
8 the addition, that would take us to 3,986, so 113.4  
9 percent of the LFA.

10                  We don't believe that this addition would  
11 cause any negative or detrimental effects to the  
12 neighborhood. It is located on the back. It does not  
13 expand the physical footprint of the house. And given  
14 the site, the surrounding area, the house does not  
15 appear to stand out as being too large for its  
16 property. There's a large area of open land on the  
17 down-sloped side, the south slope of the hill there,  
18 that's all wooded, and the property abuts land that's  
19 owned by the...

20                  MR. DISTEFANO: Hillside.

21                  MR. PEACOCK: Hillside. I'm sorry.

22 Hillside. Thank you, Rick. That's owned by Hillside  
23 Children's Center.

24                  So there's a large expansive wooded area  
25 right there that will most likely remain undeveloped.

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   So you don't significantly change the  
3 neighborhood; you don't significantly change the house  
4 with this change; but it does resolve these problems  
5 for the Mendosas.

6                   I'll probably keep it short and sweet at  
7 that. If you have any questions about it, I'd be  
8 happy to answer them.

9                   MR. MIETZ: Questions?

10                  Pretty straight forward.

11                  MR. PEACOCK: Thank you very much.

12                  MR. MIETZ: Okay. Thank you.

13                  Is there anyone in the audience who would  
14 like to speak regarding this application?

15                  There being none, this public hearing is  
16 now closed.

17                  2A-02-16 Application of R. Jon Schick, architect, and  
18 Howard and Daphne Cohen, owners of property located at  
19 157 Monteroy Road, for an Area Variance from Section  
20 209-10 to allow livable floor area to increase to  
21 3,407 sf, after interior renovations, where a maximum  
22 3,396 sf of livable floor area is allowed by code.  
23 All as described on application and plans on file.

24                  MR. COHEN: First of all, regrets from  
25 John Schick who is tied up in a more important matter,

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   as he's told me.

3                   So, right, it's 157 Monteroy Road, which  
4                   is between --

5                   MR. MIETZ: Just state your name.

6                   MR. DISTEFANO: State your name.

7                   MR. COHEN: Sorry. It's Howard Cohen.

8                   Thank you.

9                   Property at 157 Monteroy Road: It's  
10                  between Hillside and Templeton. And I think you have  
11                  all of the materials there. But essentially, what we  
12                  are doing is interior renovation, trying to bring the  
13                  house into the current century, and making what is a  
14                  boxy layout into something that's a little bit more  
15                  open.

16                  But the net effect of this internal  
17                  renovation is pushing a wall into our garage that is  
18                  going to give us an additional -- I think it's 17  
19                  square feet. So there's no external implication, and  
20                  it literally is just moving one wall. And it would  
21                  make all the difference in creating a foyer where my  
22                  little kids can set and throw their muddy shoes, as  
23                  opposed to four of us in the space that's about as  
24                  wide as this podium.

25                  So, I would appreciate it if you would

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2 consider it. Any questions?

3                   MS. BAKER LEIT: Just for the record, what  
4 year was your home built?

5                   MR. COHEN: 1931.

6                   MS. BAKER LEIT: And currently, when you  
7 walk into the home, what is there: a very small  
8 vestibule?

9                   MR. COHEN: So there's -- most of the  
10 traffic is coming through the entrance that's off the  
11 garage -- I'm sorry -- the driveway, and there's a  
12 vestibule that literally is, you know, 3-by-3.

13                   And so what we're doing is we're changing  
14 the entrance just a little bit and opening it up into  
15 a foyer, and, if you will, taking a little square  
16 footage from the garage, which was probably overbuilt  
17 at the time.

18                   MR. MIETZ: Okay. Good. Any other  
19 questions?

20                   Okay. Thank you very much.

21                   MR. COHEN: Thank you.

22                   MR. MIETZ: Is there anyone in the  
23 audience who would like to speak regarding this  
24 application?

25                   There being none, the public hearing is

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   closed.

3                   3A-03-16 Application of URMC, lessee, and Brighton  
4                   Real Estate Group, LLC, owner of property located at  
5                   2180 South Clinton Avenue, for a Sign Variance from  
6                   Section 207- 32A(5) to allow a building directory sign  
7                   to be 45 +/- sf in lieu of the maximum 16 sf allowed  
8                   by code. All as described on application and plans on  
9                   file.

10                  MR. FAKLARIS: Hi, again. Dean Faklaris,  
11                  University of Rochester, here to request a variance  
12                  for a sign directory, as Rick said, approximately 45  
13                  square feet, which is larger than code allows.

14                  As you'll see in your packet, there is an  
15                  existing directory on the building now. I'm assuming,  
16                  because I'm here, that the people who put the sign up  
17                  originally never got a variance.

18                  MR. DISTEFANO: No. Let me kind of  
19                  explain that. Each one of those signs is regarding a  
20                  business identification zone. Now, the URMC -- the UR  
21                  Medicine counts as its business identification sign.  
22                  Because all those tenants are under the UR medicine  
23                  umbrella. And as we have already determined for other  
24                  signage for UR Medicine, that is the business name.

25                  So now we have all these tenants that

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2    are -- they're looking to direct people to. So really  
3    and truly, that lower portion of the sign does become  
4    a directory sign now. And the code only allows for a  
5    16-square-foot directory sign by entrances, and this  
6    is much larger than that, so that's why --

7                   MR. FAKLARIS: Okay. I mean, it's -- I'm  
8    not sure where we landed on the sleep -- maybe it  
9    doesn't matter. On the sleep center, we put the lit  
10   box which says UR Medicine Sleep Center. I'm not sure  
11   if we consider that, the left half of it business  
12   directory, the right half --

13                  MR. DISTEFANO: No. That was  
14    considered -- that was considered the whole business  
15    identification sign at that point in time, the UR  
16    Medicine Sleep Center.

17                  Like if you had, for instance, UR  
18    Medicine -- can I just see that real quick?

19                  If it was UR Medicine Neurosurgery  
20    Partners, that would be your business identification  
21    sign. But that would be it.

22                  So in this case you have all these tenants  
23    that basically become the directory portion of it.

24                  MR. FAKLARIS: Maybe it's a matter of  
25    semantics. If we said this was UR Medicine Rochester

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2                   Neurosurgery Partners, UR Medicine Pediatric Sleep  
3                   Center; if I repeated UR Medicine on every single  
4                   tenant, because technically they're all under the UR  
5                   Medicine umbrella, I'd be allowed to do that. There's  
6                   nothing that says I couldn't do that. I'm doing --  
7                   I'm reducing it to one because I think it's logical.  
8                   But if I chose to put it on there five times --

9                   MR. DISTEFANO: I don't know that. I  
10                  don't know that that would be the interpretation.

11                  MR. FAKLARIS: Okay. And that's fine.  
12                  That's fine. Okay.

13                  But if we're just viewing it from an  
14                  aesthetic standpoint, there is a current directory  
15                  that is 5 feet by 10 feet -- I'm sorry -- an existing  
16                  sign that's 5 feet by 10 feet.

17                  My request is to take that existing  
18                  dimension, reduce it by 8 inches in width, and  
19                  maintain the content.

20                  It's now considered a directory, not a  
21                  business identifier, but the sign would be -- that  
22                  portion of the sign would be the same height, 8 inches  
23                  narrower, and then we would have the UR Medicine  
24                  identifier on top of it.

25                  So the total size of the sign would grow,

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   but the portion under consideration is smaller than  
3                   existing, if that makes sense.

4                   The reason we'd like to keep it the size  
5                   that it is is the majority of the patients coming into  
6                   that facility are visiting our neurosurgery group,  
7                   which is handling poststroke patients, pain-management  
8                   patients. The type of patient that seeks pain  
9                   management from a neurosurgeon has -- tends to be  
10                  spine issues, trouble walking. And so we do like to  
11                  identify which door you're going: front, back.

12                  There's also a pediatric and occupational  
13                  health practice in the back. You cannot get to the  
14                  back of the building from the front. You can't walk  
15                  in the front door and get to the back of the building.

16                  So you're talking about, again, people  
17                  with occupational-health issues, small children,  
18                  trying to keep them from parking, getting out of their  
19                  car, and realizing they're in the wrong spot, and  
20                  having to get back in the car and drive around.

21                  The letter height on those letters is --  
22                  we're about 3.9 inches tall on the initial cap, and  
23                  about 2-and-a-half on the lower case. General  
24                  guidelines are 1 inch for every 10 feet of viewing.  
25                  So if you're looking at 2-and-a-half inches, it's

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2 optimally viewed from about 25 feet away. If you get  
3 too much smaller than that, you're not going to see it  
4 from your car.

5                   So that's what we're trying to do.

6                   MS. TOMPKINS WRIGHT: Rick, can you speak  
7 to -- so the current sign on there is considered a  
8 business identification sign, so it is thus in  
9 conformance with the code?

10                  MR. DISTEFANO: Yes. The way we  
11 interpreted it originally was that each one of those  
12 panels, basically, was a business identification sign  
13 for the practice that was currently within that  
14 building.

15                  MS. TOMPKINS WRIGHT: Okay. So it's not  
16 that it's a nonconforming already.

17                  MR. DISTEFANO: No. No, it's not a  
18 nonconforming already.

19                  MR. FAKLARIS: Reclassifying.

20                  MS. TOMPKINS WRIGHT: Okay. I just had a  
21 quick question. What you submitted, at the top it  
22 says site sign layout option B. We weren't supposed  
23 to see option A?

24                  MR. FAKLARIS: No. We deleted that.

25                  MS. TOMPKINS WRIGHT: Okay. I just wanted

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2 to make sure I wasn't missing a page from the packet.

3                   MR. FAKLARIS: Yeah.

4                   MS. TOMPKINS WRIGHT: Do you know what the  
5 size of the font is on the sign that's currently  
6 there?

7                   MR. FAKLARIS: Slightest 4-inch initial  
8 caps. I would probably -- it's the same size.

9                   MS. TOMPKINS WRIGHT: Okay. Yeah. Okay.

10                  MS. CORRADO: The lighting is coming from  
11 the ground up?

12                  MR. FAKLARIS: Yeah. The sign itself is  
13 not lit. If you take a drive by the building, every  
14 portion of the wall has a ground sign on it where the  
15 windows aren't. So it's illuminated because the  
16 building is illuminated.

17                  MR. MIETZ: How does it work the way it  
18 is? I mean, I understand URMC bases it on where it  
19 is. But how does the directional part of it work?  
20 Does it work?

21                  MR. FAKLARIS: Yes, because I would be  
22 hearing from the neurosurgeons if it wasn't. They'd  
23 be like, "I've got patients that are" -- I'd be  
24 hearing from the sleep center too.

25                  MR. MIETZ: Because it's a tough site to

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2        find a place for a directional sign. I mean, where  
3        you placed it is probably the only logical physical  
4        place without it being a billboard where it's in the  
5        middle of the parking lot. I was just curious.

6                   MR. FAKLARIS: It's a tough -- I mean, I  
7        wouldn't assume there's a spot in the back to go. I  
8        would probably go in the front door if I didn't know  
9        better.

10                  Yeah, there really isn't a great spot  
11        there. Because if you put it in the ground in front  
12        of it, then that first row of parking -- you want it  
13        off the ground a little bit to say, Hey, there's a  
14        sign there. I should look at it.

15                  MR. MIETZ: Probably wouldn't look very  
16        good. Like a billboard of some sort probably wouldn't  
17        work very well.

18                  Okay. Any other questions?

19                  Okay. Thank you.

20                  Is there anyone in the audience who would  
21        like to speak regarding this application?

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

24        3A-04-16 Application of Mike Pinkowski, owner of  
25        property located at 45 Elm Lane, for 1) an Area

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2 Variance from Section 203-2.1B(3) to allow for a  
3 detached garage to be 1,032 sf in size in lieu of the  
4 maximum 600 sf allowed by code; and 2) an Area  
5 Variance from Section 207-6 to allow said garage to be  
6 18 ft. 4 in. in height in lieu of the maximum 16 ft.  
7 in height allowed by code. All as described on  
8 application and plans on file.

9                   MR. PINKOWSKI: Good evening. We  
10 purchased this house --

11                   MR. DISTEFANO: State your name.

12                   MR. PINKOWSKI: Michael Pinkowski. I'm  
13 the owner of the home.

14                   We purchased this house in 2010. It has  
15 currently a detached garage that was built in 1933 as  
16 part of the original concept. It is visible from the  
17 road.

18                   Our plan here is to move it back so the  
19 new garage is in the lowest part of the property. We  
20 have a sloping property. So the actual peak of the  
21 garage is less than the peak of the current carport.  
22 So it's actually touched in behind the existing  
23 carport.

24                   The overall size is more consistent with  
25 today's modern vehicle requirements than the Model T

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2                   that it was originally built for. I can't get any  
3                   vehicles in our existing garage other than our pool  
4                   furniture and miscellaneous garden tractors, etcetera.

5                   So that's why we're looking for the  
6                   variance to go to 1,000 feet, so that it becomes  
7                   effectively a three-car garage with enough space for  
8                   SUV, and wife's car, and potentially children's cars  
9                   once they become of the age to drive.

10                  The extra -- what is it: a foot and a  
11                  half?

12                  MR. LOMONACO: 2 -- 2-foot.

13                  MR. PINKOWSKI: 2-foot. It's just to  
14                  maintain the -- oh -- my architect. To maintain --  
15                  the existing slopes of the current house are what: 8  
16                  and 12?

17                  MR. LOMONACO: 8 and 12. A little bit  
18                  above that, actually.

19                  MR. DISTEFANO: Could you just state your  
20                  name for the record?

21                  MR. LOMONACO: Guy Lomonaco.

22                  So we're just trying stay contextual with  
23                  the rest of the house.

24                  MS. BAKER LEIT: So just one question on  
25                  Elm Lane: How many homes are on Elm Lane?

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   MR. PINKOWSKI: Two homes. One at 1 Elm  
3 Lane and one at 45. It's a private road.

4                   MS. DALE: And will you be adding more  
5 pavement to your driveway along with the --

6                   MR. PINKOWSKI: Excuse me? I'm sorry?

7                   MS. DALE: Oh. I'm sorry. Will you be  
8 increasing the size of your driveway?

9                   MR. PINKOWSKI: No. We're actually  
10 trading green space for green space.

11                  MS. DALE: Oh. Okay. I wasn't sure where  
12 it says new paving on the --

13                  MR. PINKOWSKI: Yeah. Right now the  
14 existing garage takes up a huge portion that -- where  
15 we move it. The garage is going over -- the new  
16 garage is actually going over asphalt. Where it  
17 currently sits, it's all currently paved.

18                  So we'll actually end up with a little bit  
19 more green space as a result of this.

20                  The slope of the property currently makes  
21 all the water run into our house. So the garage is  
22 actually going to block that water. And we're going  
23 be able to green scape that up, so every time we get  
24 an inch of rain an hour it doesn't flood my house.

25                  MS. BAKER LEIT: So actually, from the

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2     road you'll actually have more green space that you'll  
3     see --

4                   MR. PINKOWSKI: Right. Because  
5     currently --

6                   MS. BAKER LEIT: -- that garage is moved.

7                   MR. PINKOWSKI: If you're looking -- as  
8     you come down Elm Lane, if you're going to our  
9     neighbor's house, there would be a garage where Dennis  
10    is sitting; all right? Right now, this is where our  
11    covered porch is. That's where the garage will be,  
12    back behind. So you won't see anything.

13                  And our neighbor behind our house won't  
14    see it either because it just blends into the entire  
15    house. Instead of becoming an ugly standalone, it  
16    will be blended into the view scape of the house.

17                  MS. CORRADO: And the exterior finish of  
18    the new garage will reflect the look of the current  
19    home?

20                  MR. PINKOWSKI: Yeah.

21                  MS. TOMPKINS WRIGHT: Any utilities going  
22    into the garage besides electric?

23                  MR. PINKOWSKI: We have a pool, so we are  
24    planning on running water and drainage there. It will  
25    hook up into our existing sewer system.

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2                   Currently, when they put the pool in in  
3                   the 80's, they drain all the water into my neighbor's  
4                   yard when it has to be drained. Well, it actually  
5                   kind of drains in the back corner of our house, but  
6                   the natural slope of the yard fills up two of my  
7                   neighbors, the one on Elmwood and one on Elm Lane. So  
8                   it's not a complaint issue from them, but it's  
9                   certainly something that I don't want to occur.

10                  MR. DISTEFANO: And the detached garage  
11                  will be connected only through an open walkway;  
12                  correct?

13                  MR. PINKOWSKI: Correct. It won't be an  
14                  attached -- fully attached.

15                  MR. MIETZ: And heating in the garage --  
16                  heating, or no?

17                  MR. PINKOWSKI: No heating planned at this  
18                  point. It's just storage space for the pool stuff and  
19                  cars.

20                  MR. MIETZ: But the actual pool equipment  
21                  won't be going in the house; it will stay where it is?

22                  MR. PINKOWSKI: No. I'm planning on  
23                  putting that on a pad outside of the garage and just  
24                  de-installing it during the wintertime. Like you  
25                  normally -- right now, because the outside garage

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2    isn't heated, if you don't drain it, it's cracked,  
3    so....

4                   We let it crack this year; the pool  
5    drained.

6                   MR. MIETZ: Okay. Any other questions?

7                   Okay. Thanks.

8                   MR. PINKOWSKI: Thank you.

9                   MR. MIETZ: Is there anyone in the  
10    audience who would like to speak regarding this  
11    application?

12                  There being none, this public hearing is  
13    now closed.

14    3A-05-16 Application of Our Lady of Mercy School for  
15    Young Women, lessee, and Sisters of Mercy NYPPAW,  
16    Inc., owner of property located at 1437 Blossom Road,  
17    for an extension of an approved area variance  
18    (3A-02-15) pursuant to Section 219-6F allowing for a  
19    10 ft. high fence surrounding tennis courts. All as  
20    described on application and plans on file.

21                  MR. ACCOLA: Good evening. My name is  
22    Curt Accola from Marathon Engineering. I'm here on  
23    behalf of Sisters of Mercy.

24                  We are requesting an extension for the  
25    variance we received for a 10-foot fence surrounding

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2 the tennis courts. Construction is being moved to  
3 next spring because they are still trying to raise  
4 funds for the project.

5                   So that's about it. Any questions?

6                   MS. TOMPKINS WRIGHT: It's definitely  
7 being moved? So you'll be here again next March  
8 getting another extension?

9                   MR. ACCOLA: We hope to start by this time  
10 next year. We were planning on starting this year,  
11 but they haven't raised enough money for it yet.

12                  MS. CORRADO: And have there been any  
13 changes in the plan otherwise? It looks like it's the  
14 same application as last year; is that --

15                  MR. ACCOLA: Yes, ma'am. Everything is  
16 identical.

17                  MR. MIETZ: Okay. Pretty easy.

18 Questions?

19                  Thanks.

20                  MR. ACCOLA: Thank you.

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

24                  There being none, the hearing is closed.

25 3A-06-16 Application of James L. Garrett Construction

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016  
2 Company, Inc., agent, and Jim Morris, owner of  
3 property located at 130 Whitewood Lane, for an Area  
4 Variance from Section 209-10 to allow livable floor  
5 area to increase from 4,995 sf to 5,064 sf, after  
6 construction of an entry addition, where a maximum  
7 4,267.5 sf of livable floor area is allowed by code.  
8 All as described on application and plans on file.

9                   MR. GARRETT: Good evening. Richard  
10 Garrett. I have the sign thing for the signage,  
11 whoever takes that.

12                   MR. DISTEFANO: Thanks.

13                   MR. GARRETT: Also I have four letters  
14 here in support of the application for the variance  
15 request.

16                   MR. DISTEFANO: Just want to hold on for  
17 one second?

18                   And just -- I have a letter here from  
19 110 Whitewood Lane, 111 Whitewood Lane?

20                   MR. GARRETT: I think so.

21                   MR. DISTEFANO: It just has 111 right  
22 there.

23                   MR. GARRETT: Right.

24                   MR. DISTEFANO: I'm not sure which  
25 one's -- 145 Whitewood Lane. Do you know the address

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2   on that one?

3                   MR. GARRETT: This one I'd have to look  
4   up. It's the neighbor across the street.

5                   MR. DISTEFANO: Okay. All in support of  
6   the application.

7                   MR. MIETZ: We have 111, 145 -- are all  
8   three across the street then, or the one?

9                   MR. GARRETT: They're all from the people  
10   directly across the street, and the neighbor to the  
11   north, that would look at the area where the variance  
12   request is for.

13                  MR. MIETZ: Okay. Is everybody clear?

14                  MR. GARRETT: Okay. What the request is  
15   for obviously approximately 70 square foot of  
16   additional living area from what's permitted by code  
17   in excess of what's now existing.

18                  What it is is a side entrance, enlarging  
19   it slightly, obviously to just create a little bit  
20   more space, basically as a mudroom side entrance.  
21   Because the house has a fairly large front foyer; but  
22   obviously in this day in age, rarely do people use the  
23   front door of the house and that type of thing.

24                  So it's pretty straight forward.

25                  It's well within side setbacks and that

1                   BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2 type of thing.

3                   MR. MIETZ: Questions?

4                   MS. DALE: Could you talk a little bit  
5 more about -- you said that the current back entry  
6 with this is already confined on all sides, which  
7 necessitated the fact that you had to bump out to  
8 extend the --

9                   MR. GARRETT: Right. When you come in the  
10 side entrance of the house now, there's an area that's  
11 immediately inside the door that leads from the  
12 kitchen to the garage area, which is really a hallway  
13 as well as the side entrance area, and it's  
14 approximately 3-feet wide by maybe 8- or 9-feet long,  
15 and it has a closet in there and leads to a staircase  
16 to the second floor, as well as an entrance into the  
17 kitchen and the main living area of the house. So  
18 it's fairly tight and there's not a lot of space  
19 there.

20                   Obviously everything matches the rest of  
21 the house and the architecture and that type of thing.

22                   MS. DALE: And the property behind you  
23 belongs to --

24                   MR. GARRETT: Country Club of Rochester.

25                   MS. DALE: So there's no neighbors in the

1 BRIGHTON ZONING BOARD OF APPEALS - 3/2/2016

2 back.

3 MR. GARRETT: There are no neighbors in  
4 the rear?

5 This is not all the way in the rear of the  
6 house. It's about halfway down the side of the house.

7 MR. MIETZ: Questions?

8 Okay.

9 MR. GARRETT: Great. Thank you.

10 MR. MIETZ: Is there anyone in the  
11 audience who would like to speak regarding this  
12 application?

13 There being none, the public hearing is  
14 now closed.

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# EDITH FORBES COURT REPORTING SERVICES

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

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C E R T I F I C A T I O N

STATE OF NEW YORK:

COUNTY OF GENESEE:

3

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

4

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

5

WITNESS my hand in the city of Batavia,

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county of Genesee, state of New York.

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LAUREN E. SHERWOOD

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Freelance Court Reporter and

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Notary Public No. 01SH625264

in and for Genesee County, New York

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2                   PROCEEDINGS HELD BEFORE THE ZONING BOARD OF  
3 APPEALS AT 2300 ELMWOOD AVENUE, ROCHESTER, NEW YORK  
3 On March 2, 2016, COMMENCING AT APPROXIMATELY  
7:15 P.M.

4

5                   March 2, 2016  
6                   Brighton Town Hall  
6                   2300 Elmwood Avenue  
7                   Rochester, New York 14618

7

8

## PRESENT:

9                   DENNIS MIETZ, CHAIRMAN  
10                  CHRISTINE CORRADO  
10                  JEANNE DALE  
11                  ANDREA TOMPKINS WRIGHT  
11                  CANDICE BAKER LEIT, ESQ.

12                  DAVID DOLLINGER, ESQ.  
13                  Town Attorney

14                  RICK DISTEFANO  
14                  Secretary

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16

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

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22                  Reported By:            LAUREN E. SHERWOOD  
22    Edith Forbes Court Reporting  
23    21 Woodcrest Drive  
23    Batavia, New York 14020

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2 Application 3A-01-16

3 Application of Michael Mendora, owner of  
4 property located at 9 Far View Hill Road, for an Area  
5 Variance from Section 209-10 to allow livable floor  
6 area to increase from 3,813 sf to 3,986 sf, after  
7 construction of a second floor addition, where a  
8 maximum 3,515 sf of livable floor area is allowed by  
9 code. All as described on application and plans on  
10 file.

11 Motion made by Ms. Dale to approve

12 Application 3A-01-16.

13 **FINDINGS OF FACT:**

14 1. The requested variance increases the livable  
15 floor area by 4.5 percent and is not substantial.

16 2. The proposed addition is over existing space and  
17 does not increase the footprint of the house. The  
18 addition is in the rear of the house and will not  
19 noticeably increase the size of the house from the  
20 street.

21 3. There will be no negative impact to the  
22 character or environmental conditions of the  
23 neighborhood, as the houses are scattered on  
24 irregular-shaped lots in a nonuniform manner with a  
25 wide range of lot areas and livable-floor area

1  
2       percentages.

3       4.       The primary driver of the variance request was  
4       not self-created by the applicant, as it is to repair  
5       an ice-dam and roof-leak problem.

## 6 CONDITIONS:

7       1.     This variance will apply only to the structure  
8       of the addition and addition described in the  
9       application and testimony.

10 2. Any applicable permits shall be obtained.

11 (Seconded by Ms. Tompkins Wright.)

12 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
13 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
14 Leit, yes.)

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

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2 Application 3A-02-16

3 Application of R. Jon Schick, architect, and  
4 Howard and Daphne Cohen, owners of property located at  
5 157 Monteroy Road, for an Area Variance from Section  
6 209-10 to allow livable floor area to increase to  
7 3,407 sf, after interior renovations, where a maximum  
8 3,396 sf of livable floor area is allowed by code.  
9 All as described on application and plans on file.

10 Motion made by Mr. Mietz to approve

11 Application 3A-02-16.

12 **FINDINGS OF FACT:**

13 1. The proposed change in livable floor area to  
14 3,407 square feet is not substantial and is in keeping  
15 with the character of the neighborhood.

16 2. Properties within the subject neighborhood have  
17 larger square footage or proportionately larger  
18 footprints on similar size lots.

19 3. No negative effect on the neighborhood is  
20 expected to result from the approval of this variance  
21 and since it will not be visible from the exterior or  
22 extend the total footprint of the structure at all.

23 4. The request is the minimum necessary to achieve  
24 the necessary result in using part of the interior  
25 structure of the garage to modify the interior living

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2 space.

3 **CONDITIONS:**

4 1. This is based on the drawings as submitted and  
5 the testimony given regarding this project.

6 2. All necessary permits shall be obtained.

7 (Seconded by Ms. Corrado.)

8 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
9 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
10 Leit, yes.)

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

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2 Application 3A-03-16

3 Application of URMC, lessee, and Brighton Real  
4 Estate Group, LLC, owner of property located at 2180  
5 South Clinton Avenue, for a Sign Variance from Section  
6 207- 32A(5) to allow a building directory sign to be  
7 45 +/- sf in lieu of the maximum 16 sf allowed by  
8 code. All as described on application and plans on  
9 file.

10 Motion made by Ms. Tompkins Wright to approve  
11 Application 3A-03-16.

12 **FINDINGS OF FACT:**

13 1. The granting of the requested variance will not  
14 produce an undesirable change in the character of the  
15 neighborhood, or be a detriment to nearby properties,  
16 and is not substantial. A 50 square-foot sign  
17 currently exists at the property in the exact location  
18 where this sign is proposed. The applicant's  
19 regranted sign of 45 square feet will replace this  
20 similar existing sign and reduce signage at the site  
21 overall.

22 2. The benefit sought by the applicant cannot  
23 reasonably be achieved by any other method. The  
24 building to which this sign is attached houses  
25 multiple medical uses and is bifurcated into two

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2 sections, or two separate entrances. The sign is  
3 necessary to direct drivers, prior to parking, as to  
4 which entrance to use and which area of the parking  
5 lot to park.

6 3. There is no evidence that the proposed variance  
7 will have an adverse effect or impact on the physical  
8 or environmental conditions in the neighborhood or  
9 district.

10 4. The difficulty in complying with the code is not  
11 self-created, but instead stems from the layout and  
12 use of the building and parking lot.

13 **CONDITIONS:**

14 1. The variance granted herein applies only to the  
15 sign described and in the location as depicted on the  
16 application and in the testimony given.

17 2. The building sign shall not be internally lit in  
18 any way; although the building may be lit as currently  
19 lit.

20 3. All necessary approvals and permits must be  
21 obtained.

22 (Seconded by Ms. Baker Leit.)

23 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
24 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
25 Leit, yes.)

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

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**EDITH FORBES COURT REPORTING SERVICES**

Phone: 585.343.8612 | Fax: 585.345.6068 | Email: [Eforbes@rochester.rr.com](mailto:Eforbes@rochester.rr.com)

1

2 Application 3A-04-16

3 Application of Mike Pinkowski, owner of property  
4 located at 45 Elm Lane, for 1) an Area Variance from  
5 Section 203-2.1B(3) to allow for a detached garage to  
6 be 1,032 sf in size in lieu of the maximum 600 sf  
7 allowed by code; and 2) an Area Variance from Section  
8 207-6 to allow said garage to be 18 ft. 4 in. in  
9 height in lieu of the maximum 16 ft. in height allowed  
10 by code. All as described on application and plans on  
11 file.

12 Motion made by Ms. Baker Leit to approve  
13 Application 3A-04-16.

14 **FINDINGS OF FACT:**

15 1. The requested variance to allow for a detached  
16 garage to be 1,032 square feet in size in lieu of 600  
17 square feet allowed by code, and for the garage to be  
18 18 feet 4 inches in height in lieu of the maximum  
19 16 feet in height allowable by code, is not  
20 substantial given that the new three-car garage will  
21 be proportionate to the large home on a generous lot  
22 located on the secluded cul-de-sac on a private road  
23 with just two homes.

24 2. No other alternative can alleviate the  
25 difficulty caused by the existing one-car garage built

1

2 in 1933 and produce the desired effect of parking for  
3 larger modern vehicles.

4       3.     No unacceptable change in the neighborhood and  
5     no substantial detriment is expected to result as the  
6     new garage will be tucked further behind the home and  
7     be less visible from the road.   In addition, several  
8     homes in the adjacent neighborhoods also have  
9     three-car garages.

10       4.       The alleged hardship was not self-created as  
11       garages built in the 1930s were made for families with  
12       just one smaller car, not today's larger cars.

13 5. Health, safety and welfare of the community will  
14 not be adversely affected by the present application.

## 15 CONDITIONS:

16 1. This variance will apply only to the structure  
17 that was described in the application and testimony.

18       2.       The only utilities to the garage shall be  
19       electric, water, and sanitary sewer which shall be  
20       limited to pool-water discharge.

21       3.       All necessary building permits shall be  
22       obtained.

23 (Seconded by Ms. Tompkins Wright.)

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

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

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2           Leit, yes.)

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

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1

2 Application 3A-05-16

3 Application of Our Lady of Mercy School for  
4 Young Women, lessee, and Sisters of Mercy NYPPAW,  
5 Inc., owner of property located at 1437 Blossom Road,  
6 for an extension of an approved area variance  
7 (3A-02-15) pursuant to Section 219-6F allowing for a  
8 10 ft. High fence surrounding tennis courts. All as  
9 described on application and plans on file.

10 Motion made by Ms. Corrado to approve

11 Application 3A-05-16.

12 **FINDINGS OF FACT:**

13 1. The approval of this application is based on the  
14 testimony and the original findings of fact presented  
15 in March of 2015.

16 **CONDITIONS:**

17 1. All previous conditions hold true.

18 (Seconded by Ms. Dale.)

19 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
20 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
21 Leit, yes.)

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

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2 Application 3A-06-16

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Application of James L. Garrett

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Construction Company, Inc., agent, and Jim Morris,  
5 owner of property located at 130 Whitewood Lane, for  
6 an Area Variance from Section 209-10 to allow livable  
7 floor area to increase from 4,995 sf to 5,064 sf,  
8 after construction of an entry addition, where a  
9 maximum 4,267.5 sf of livable floor area is allowed by  
10 code. All as described on application and plans on  
11 file.

12

Motion made by Ms. Dale to approve

13

Application 3A-06-16.

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**FINDINGS OF FACT:**

15

1. The requested variance is not substantial. It  
16 is less than 2 percent of the total size of the  
17 existing property.

18

2. There will be no unacceptable change in the  
19 character of the neighborhood or detriment to nearby  
20 properties which will result from the approval of this  
21 variance, as the majority of the addition is in the  
22 side of the property and adjacent properties are  
23 approximately the same size.

24

3. No other alternative can alleviate the  
25 difficulty and provide a desired result, as the

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2 current back entry is confined on all sides.

3 **CONDITIONS:**

4 1. The variance will apply only to the structure in  
5 the application submitted and the testimony given.

6 2. All necessary Architectural Review Board permits  
7 shall be obtained.

8 (Seconded by Ms. Baker Leit.)

9 (Ms. Tompkins Wright, yes; Ms. Dale, yes;  
10 Mr. Mietz, yes; Ms. Corrado, yes; Ms. Baker  
11 Leit, yes.)

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

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## C E R T I F I C A T I O N

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STATE OF NEW YORK:

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COUNTY OF GENESEE:

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I, LAUREN E. SHERWOOD, do hereby certify

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

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I further certify that I am not an

attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action;

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WITNESS my hand in the city of Batavia,  
county of Genesee, state of New York.

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LAUREN E. SHERWOOD

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

**#138.05-1-70** [1] - 2:18  
**01SH6252644** [2] - 27:24, 42:24  
1 [16] - 12:24, 15:25, 18:2, 29:14, 30:7, 31:13, 32:4, 33:13, 34:14, 36:4, 36:15, 37:16, 39:13, 39:17, 40:15, 41:4  
1,000 [1] - 17:6  
1,032 [3] - 16:3, 36:6, 36:16  
10 [5] - 11:15, 11:16, 12:24, 21:19, 39:8  
10-foot [1] - 21:25  
108.5 [1] - 5:7  
110 [1] - 23:19  
110-percent [1] - 5:5  
110.7-percent [1] - 5:5  
111 [3] - 23:19, 23:21, 24:7  
113.4 [1] - 5:8  
12 [2] - 17:16, 17:17  
12-by-14-foot [1] - 4:6  
130 [2] - 23:3, 40:5  
14-foot-by-14 [1] - 4:6  
14020 [2] - 1:24, 28:23  
1437 [2] - 21:16, 39:5  
145 [2] - 23:25, 24:7  
14618 [2] - 1:6, 28:6  
157 [4] - 6:19, 7:3, 7:9, 31:5  
16 [5] - 9:7, 16:6, 33:7, 36:9, 36:19  
16-square-foot [1] - 10:5  
16.5 [1] - 2:21  
17 [1] - 7:18  
176 [1] - 4:23  
18 [3] - 16:6, 36:8, 36:18  
1930s [1] - 37:11  
1931 [1] - 8:5  
1933 [2] - 16:15, 37:2  
2 [18] - 1:3, 1:5, 16:4, 17:12, 28:3, 28:5, 29:16, 30:10, 31:16, 32:6, 33:22, 34:17, 36:7, 36:24, 37:18, 40:16, 40:18, 41:6  
2-and-a-half [2] - 12:23, 12:25  
2-foot [2] - 17:12, 17:13  
2009 [2] - 3:24  
2010 [1] - 16:14  
2015 [1] - 39:15  
2016 [7] - 1:3, 1:5, 2:8, 2:23, 2:24, 28:3, 28:5  
203-2.1B(3) [2] - 16:2, 36:5  
205-2 [1] - 2:19  
207 [2] - 9:6, 33:6  
207-6 [2] - 16:5, 36:8  
209-10 [6] - 3:9, 6:20, 23:4, 29:5, 31:6, 40:6  
21 [2] - 1:23, 28:22  
2180 [2] - 9:5, 33:4  
219-6F [2] - 21:18, 39:7  
2300 [4] - 1:2, 1:6, 28:2, 28:6  
25 [1] - 13:2  
25th [1] - 2:8  
2940 [1] - 2:17  
2960 [1] - 3:4  
2980 [1] - 2:17  
2A-02-16 [1] - 6:17  
2A-03-16 [2] - 2:15, 3:3  
3 [8] - 2:23, 29:21, 31:19, 34:6, 34:20, 37:4, 37:21, 40:24  
3,396 [2] - 6:22, 31:8  
3,407 [3] - 6:21, 31:7, 31:14  
3,515 [2] - 3:12, 29:8  
3,813 [2] - 3:10, 29:6  
3,986 [3] - 3:10, 5:8, 29:6  
3-by-3 [1] - 8:12  
3-feet [1] - 25:14  
3.9 [1] - 12:22  
32A(5) [2] - 9:6, 33:6  
339 [1] - 3:16  
3A-01-16 [3] - 3:7, 29:2, 29:12  
3A-02-15 [2] - 21:18, 39:7  
3A-02-16 [2] - 31:2, 31:11  
3A-03-16 [3] - 9:3, 33:2, 33:11  
3A-04-16 [3] - 15:24, 36:2, 36:13  
3A-05-16 [3] - 21:14, 39:2, 39:11  
3A-06-16 [3] - 22:25, 40:2, 40:13  
4 [7] - 16:6, 30:3, 31:23, 34:10, 36:8, 36:18, 37:10  
4,267.5 [2] - 23:7, 40:9  
4,995 [2] - 23:5, 40:7  
4-inch [1] - 14:7  
4.5 [1] - 29:15  
45 [7] - 9:7, 9:12, 15:25, 18:3, 33:7, 33:19, 36:4  
5 [3] - 11:15, 11:16, 37:13  
5,064 [2] - 23:5, 40:7  
50 [1] - 33:16  
6 [2] - 2:24, 3:24  
600 [3] - 16:4, 36:6, 36:16  
6th [1] - 3:6  
7 [2] - 3:24, 5:4  
70 [1] - 24:15  
7:15 [2] - 1:3, 28:3  
8 [5] - 11:18, 11:22, 17:15, 17:17, 25:14  
80's [1] - 20:3  
9 [4] - 2:20, 3:8, 3:23, 29:4  
9-feet [1] - 25:14  
able [1] - 18:23  
above-styled [2] - 27:5, 42:5  
abuts [1] - 5:18  
ACCOLA [4] - 21:21, 22:9, 22:15, 22:20  
Accola [1] - 21:22  
achieve [1] - 31:23  
achieved [1] - 33:23  
action [4] - 27:13, 42:13  
actual [3] - 4:9, 16:20, 20:20  
adding [1] - 18:4  
addition [12] - 3:11, 5:8, 5:10, 23:6, 29:7, 29:16, 29:18, 30:8, 37:7, 40:8, 40:21  
additional [2] - 7:18, 24:16  
address [1] - 23:25  
adjacent [2] - 37:8, 40:22  
adverse [1] - 34:7  
adversely [1] - 37:14  
advertised [2] - 2:5, 2:7  
aesthetic [1] - 11:14  
affected [1] - 37:14  
age [2] - 17:9, 24:22  
agent [2] - 23:2, 40:4  
ago [2] - 3:24  
alleged [1] - 37:10  
alleviate [2] - 36:24, 40:24  
allow [14] - 2:19, 3:9, 6:20, 9:6, 16:2, 16:5, 23:4, 29:5, 31:6, 33:6, 36:5, 36:8, 36:15, 40:6  
allowable [1] - 36:19  
allowed [14] - 3:12, 6:22, 9:7, 11:5, 16:4, 16:7, 23:7, 29:8, 31:8, 33:7, 36:7, 36:9, 36:17, 40:9  
allowing [2] - 21:18, 39:7  
allows [2] - 9:13, 10:4  
alternative [2] - 36:24, 40:24  
ANDREA [2] - 1:10, 28:10  
applicant [1] - 28:17  
applicant [2] - 30:4, 33:22  
applicant's [1] - 33:18  
APPLICANTS' [1] - 2:25  
application [31] - 2:14, 2:22, 3:3, 3:5, 3:13, 6:14, 6:23, 8:24, 9:8, 15:21, 16:8, 21:11, 21:20, 22:14, 22:23, 23:8, 23:14, 24:6, 26:12, 29:9, 30:9, 31:9, 33:8, 34:16, 36:10, 37:14, 37:17, 39:9, 39:13, 40:10, 41:5  
Application [25] - 2:15, 3:7, 6:17, 9:3, 15:24, 21:14, 22:25, 29:2, 29:3, 29:12, 31:2, 31:3, 31:11, 33:2, 33:3, 33:11, 36:2, 36:3, 36:13, 39:2, 39:3, 39:11, 40:2, 40:3, 40:13  
applies [1] - 34:14  
apply [3] - 30:7, 37:16, 41:4  
appreciate [1] - 7:25  
approval [3] - 31:20, 39:13, 40:20  
approvals [1] - 34:20  
approve [12] - 29:11, 30:15, 31:10, 32:11, 33:10, 35:2, 36:12, 38:3, 39:10, 39:22, 40:12, 41:12  
approved [2] - 21:17, 39:6  
**APPROXIMATELY** [2] - 1:3, 28:3  
**APRIL** [1] - 2:24  
**April** [1] - 3:6  
**architect** [4] - 2:15, 6:17, 17:14, 31:3  
**Architectural** [1] - 4:16  
**architecture** [1] - 25:21  
**area** [28] - 3:10, 3:12, 4:23, 5:14, 5:16, 5:24, 6:20, 6:22, 21:17, 23:5, 23:7, 24:11, 24:16, 25:10, 25:12, 25:13, 25:17, 29:6, 29:8, 29:15, 29:25, 31:6, 31:8, 31:13, 34:4, 39:6, 40:7, 40:9  
**Area** [11] - 2:18, 3:8, 6:19, 15:25, 16:4, 23:3, 29:4, 31:5, 36:4, 36:7, 40:6  
**areas** [1] - 29:25  
**asphalt** [1] - 18:16  
**assisted** [2] - 27:7, 42:7  
**assume** [1] - 15:7  
**assuming** [1] - 9:15  
**AT** [6] - 1:2, 1:3, 2:23, 2:25, 28:2, 28:3  
**attached** [3] - 20:14, 33:24  
**attorney** [4] - 27:11, 27:12, 42:11, 42:12  
**Attorney** [2] - 1:12, 28:12  
**audience** [6] - 6:13, 8:23, 15:20, 21:10, 22:22, 26:11  
**AVENUE** [2] - 1:2, 28:2  
**Avenue** [8] - 1:6, 2:17, 2:18, 3:4, 3:16, 9:5, 28:6, 33:5  
**Baker** [9] - 30:13, 32:9, 34:22, 34:24, 36:12, 37:25, 39:20, 41:8, 41:10  
**BAKER** [7] - 1:11, 8:3, 8:6, 17:24, 18:25, 19:6, 28:11  
**based** [2] - 32:4,

39:13  
**basement** [1] - 4:7  
**bases** [1] - 14:18  
**Batavia** [4] - 1:24, 27:14, 28:23, 42:14  
**become** [3] - 10:3, 10:23, 17:9  
**becomes** [1] - 17:6  
**becoming** [1] - 19:15  
**BEFORE** [2] - 1:2, 28:2  
**behalf** [2] - 3:21, 21:23  
**behind** [5] - 16:22, 19:12, 19:13, 25:22, 37:6  
**belongs** [1] - 25:23  
**benefit** [1] - 33:22  
**better** [1] - 15:9  
**between** [3] - 2:17, 7:4, 7:10  
**Bidwell** [1] - 2:16  
**Bidwell-Cerone** [1] - 2:16  
**bifurcated** [1] - 33:25  
**billboard** [2] - 15:4, 15:16  
**bit** [7] - 7:14, 8:14, 15:13, 17:17, 18:18, 24:19, 25:4  
**blended** [1] - 19:16  
**blends** [1] - 19:14  
**block** [1] - 18:22  
**Blossom** [2] - 21:16, 39:5  
**BOARD** [2] - 1:2, 28:2  
**Board** [3] - 2:3, 28:17, 41:6  
**bought** [1] - 3:23  
**box** [1] - 10:10  
**boxy** [1] - 7:14  
**breakdown** [1] - 5:2  
**Brighton** [6] - 1:5, 2:3, 2:7, 9:3, 28:5, 33:3  
**bring** [1] - 7:12  
**building** [13] - 9:6, 9:15, 12:14, 12:15, 13:14, 14:13, 14:16, 33:6, 33:24, 34:12, 34:17, 34:18, 37:21  
**built** [5] - 8:4, 16:15, 17:2, 36:25, 37:11  
**bump** [1] - 25:7  
**business** [9] - 9:20, 9:21, 9:24, 10:11, 10:14, 10:20, 11:21, 13:8, 13:12  
**buying** [1] - 4:3  
**CANDICE** [2] - 1:11, 28:11  
**cannot** [2] - 12:13, 33:22  
**cap** [1] - 12:22  
**caps** [1] - 14:8  
**car** [9] - 12:19, 12:20, 13:4, 17:7, 17:8, 36:20, 36:25, 37:9, 37:12  
**carport** [2] - 16:21, 16:23  
**carries** [6] - 30:16, 32:12, 35:3, 38:4, 39:23, 41:13  
**cars** [3] - 17:8, 20:19, 37:12  
**case** [3] - 3:2, 10:22, 12:23  
**cases** [1] - 28:17  
**caused** [1] - 36:25  
**Center** [4] - 5:23, 10:10, 10:16, 11:3  
**center** [2] - 10:9, 14:24  
**century** [1] - 7:13  
**Cerone** [2] - 2:16  
**certainly** [1] - 20:9  
**certify** [4] - 27:4, 27:10, 42:4, 42:10  
**CHAIRMAN** [2] - 1:9, 28:9  
**Chairman** [1] - 2:6  
**change** [7] - 6:2, 6:3, 6:4, 31:13, 33:14, 37:4, 40:18  
**changes** [1] - 22:13  
**changing** [1] - 8:13  
**character** [4] - 29:22, 31:15, 33:14, 40:19  
**children** [1] - 12:17  
**Children's** [1] - 5:23  
**children's** [1] - 17:8  
**chose** [1] - 11:8  
**CHRISTINE** [2] - 1:9, 28:9  
**circle** [1] - 4:22  
**city** [3] - 3:17, 27:14, 42:14  
**clear** [1] - 24:13  
**client** [1] - 3:22  
**Clinton** [2] - 9:5, 33:5  
**closed** [6] - 6:16, 9:2, 15:23, 21:13, 22:24, 26:14  
**closet** [1] - 25:15  
**Club** [1] - 25:24  
**code** [20] - 2:22, 3:13, 6:22, 9:8, 9:13, 10:4, 13:9, 16:4, 16:7, 23:7, 24:16, 29:9, 31:8, 33:8, 34:10, 36:7, 36:10, 36:17, 36:19, 40:10  
**Cohen** [3] - 6:18, 7:7, 31:4  
**COHEN** [5] - 6:24, 7:7, 8:5, 8:9, 8:21  
**coming** [3] - 8:10, 12:5, 14:10  
**COMMENCING** [2] - 1:3, 28:3  
**community** [1] - 37:13  
**Company** [2] - 23:2, 40:4  
**complaint** [1] - 20:8  
**completed** [1] - 28:18  
**complying** [1] - 34:10  
**computer** [2] - 27:7, 42:7  
**computer-assisted** [2] - 27:7, 42:7  
**concept** [1] - 16:16  
**conditions** [9] - 29:22, 30:16, 32:12, 34:8, 35:3, 38:4, 39:17, 39:23, 41:13  
**CONDITIONS** [6] - 30:6, 32:3, 34:13, 37:15, 39:16, 41:3  
**confined** [2] - 25:6, 41:2  
**conformance** [1] - 13:9  
**connected** [3] - 20:11, 27:12, 42:12  
**consider** [2] - 8:2, 10:11  
**consideration** [1] - 12:2  
**considered** [5] - 10:14, 11:20, 13:7, 28:17  
**consistent** [1] - 16:24  
**constitute** [2] - 27:8, 42:8  
**construct** [1] - 4:18  
**constructed** [2] - 2:20, 3:4  
**construction** [5] - 3:11, 22:2, 23:6, 29:7, 40:8  
**Construction** [2] - 22:25, 40:4  
3:13, 6:22, 9:8, 9:13, 10:4, 13:9, 16:4, 16:7, 23:7, 24:16, 29:9, 31:8, 33:8, 34:10, 36:7, 36:10, 36:17, 36:19, 40:10  
**CORRADO** [5] - 1:9, 14:10, 19:17, 22:12, 20:5  
**Corrado** [8] - 30:13, 32:7, 32:9, 34:24, 37:25, 39:10, 39:20, 41:10  
**correct** [2] - 20:12, 20:13  
**counsel** [4] - 27:11, 27:12, 42:11, 42:12  
**country** [1] - 25:24  
**counts** [1] - 9:21  
**COUNTY** [2] - 27:3, 42:3  
**county** [2] - 27:15, 42:15  
**County** [2] - 27:25, 42:25  
**Court** [4] - 1:23, 27:24, 28:22, 42:24  
**courts** [3] - 21:19, 22:2, 39:8  
**cover** [1] - 5:5  
**covered** [1] - 19:11  
**crack** [1] - 21:4  
**cracked** [1] - 21:2  
**create** [1] - 24:19  
**created** [3] - 30:4, 34:11, 37:10  
**creating** [1] - 7:21  
**cul** [1] - 36:22  
**cul-de-sac** [1] - 36:22  
**curious** [1] - 15:5  
**current** [8] - 7:13, 11:14, 13:7, 16:21, 17:15, 19:18, 25:5, 41:2  
**Curt** [1] - 21:22  
**Dale** [9] - 29:11, 30:12, 32:8, 34:23, 37:24, 39:18, 39:19, 40:12, 41:9  
**DALE** [8] - 1:10, 18:4, 18:7, 18:11, 25:4, 25:22, 25:25, 28:10  
**dam** [1] - 30:5  
**damming** [3] - 4:4, 4:14, 4:18  
**Daphne** [2] - 6:18, 31:4  
**DAVID** [2] - 1:12, 28:12  
**de** [2] - 20:24, 36:22  
**de-installing** [1] - 20:24  
**Dean** [1] - 9:10  
**decisions** [1] - 28:18  
**deck** [2] - 4:8, 4:10  
**definitely** [1] - 22:6  
**deleted** [1] - 13:24  
**Dennis** [1] - 19:9  
**DENNIS** [2] - 1:9, 28:9  
**depicted** [1] - 34:15  
**described** [16] - 2:22, 3:13, 6:23, 9:8, 16:7, 21:20, 23:8, 29:9, 30:8, 31:9, 33:8, 34:15, 36:10, 37:17, 39:9, 40:10  
**desired** [2] - 37:2, 40:25  
**detached** [5] - 16:3, 16:15, 20:10, 36:5, 36:15  
**determined** [1] - 9:23  
**detriment** [3] - 33:15, 37:5, 40:19  
**detrimental** [1] - 5:11  
**difference** [1] - 7:21  
**difficulty** [3] - 36:25, 40:25  
**dimension** [1] - 11:18  
**direct** [2] - 10:2, 34:3  
**directional** [2] - 14:19, 15:2  
**directly** [1] - 24:10  
**directory** [10] - 9:6, 9:12, 9:15, 10:4, 10:5, 10:12, 10:23, 11:14, 11:20, 33:6  
**discharge** [1] - 37:20  
**DISTEFANO** [21] - 1:13, 2:6, 2:11, 3:2, 3:19, 5:20, 7:6, 9:18, 10:13, 11:9, 13:10, 13:17, 16:11, 17:19, 20:10, 23:12, 23:16, 23:21, 23:24, 24:5, 28:13  
**district** [1] - 34:9  
**DOLLINGER** [2] - 1:12, 28:12  
**door** [5] - 12:11, 12:15, 15:8, 24:23, 25:11  
**down** [3] - 5:17, 19:8, 26:6  
**down-sloped** [1] -

5:17  
**drain** [2] - 20:3, 21:2  
**drainage** [1] - 19:24  
**drained** [2] - 20:4, 21:5  
**drains** [1] - 20:5  
**drawings** [1] - 32:4  
**Drive** [2] - 1:23, 28:22  
**drive** [3] - 12:20, 14:13, 17:9  
**driver** [1] - 30:3  
**drivers** [1] - 34:3  
**driveway** [3] - 8:11, 18:5, 18:8  
**during** [1] - 20:24  
**East** [4] - 2:17, 2:18, 3:4, 3:16  
**easy** [1] - 22:17  
**Edith** [2] - 1:23, 28:22  
**effect** [4] - 7:16, 31:19, 34:7, 37:2  
**effectively** [1] - 17:7  
**effects** [1] - 5:11  
**either** [1] - 19:14  
**electric** [2] - 19:22, 37:19  
**Elm** [7] - 15:25, 17:25, 18:2, 19:8, 20:7, 36:4  
**ELMWOOD** [2] - 1:2, 28:2  
**Elmwood** [3] - 1:6, 20:7, 28:6  
**employee** [2] - 27:12, 42:12  
**end** [2] - 3:25, 18:18  
**Engineering** [1] - 21:22  
**enlarging** [1] - 24:18  
**entire** [1] - 19:14  
**entrance** [8] - 8:10, 8:14, 24:18, 24:20, 25:10, 25:13, 25:16, 34:4  
**entrances** [2] - 10:5, 34:2  
**entry** [4] - 23:6, 25:5, 40:8, 41:2  
**environmental** [2] - 29:22, 34:8  
**equipment** [1] - 20:20  
**ESQ** [4] - 1:11, 1:12, 28:11, 28:12  
**essentially** [1] - 7:11  
**Estate** [2] - 9:4, 33:4  
**etcetera** [1] - 17:4  
**evening** [5] - 3:15, 3:21, 16:9, 21:21, 23:9  
**evidence** [1] - 34:6  
**exact** [1] - 33:17  
**excess** [1] - 24:17  
**excessively** [1] - 4:12  
**excuse** [1] - 18:6  
**existing** [14] - 9:15, 11:15, 11:17, 12:3, 16:22, 17:3, 17:15, 18:14, 19:25, 24:17, 29:16, 33:20, 36:25, 40:17  
**exists** [1] - 33:17  
**expand** [1] - 5:13  
**expansive** [1] - 5:24  
**expected** [2] - 31:20, 37:5  
**explain** [1] - 9:19  
**extend** [2] - 25:8, 31:22  
**extension** [4] - 21:17, 21:24, 22:8, 39:6  
**exterior** [2] - 19:17, 31:21  
**external** [1] - 7:19  
**extra** [1] - 17:10  
**facility** [1] - 12:6  
**FACT** [6] - 29:13, 31:12, 33:12, 36:14, 39:12, 40:14  
**fact** [2] - 25:7, 39:14  
**fairly** [3] - 3:25, 24:21, 25:18  
**FAKLARIS** [11] - 9:10, 10:10, 10:24, 11:11, 13:19, 13:24, 14:3, 14:7, 14:12, 14:21, 15:6  
**Faklaris** [1] - 9:10  
**families** [1] - 37:11  
**family** [1] - 2:19  
**Far** [4] - 3:8, 3:23, 5:4, 29:4  
**February** [1] - 2:7  
**FEBRUARY** [1] - 2:23  
**feet** [16] - 4:24, 7:19, 9:13, 11:15, 11:16, 12:24, 13:2, 17:6, 31:14, 33:19, 36:16, 36:17, 36:18, 36:19  
**fence** [3] - 21:19, 21:25, 39:8  
**file** [13] - 2:23, 3:14, 6:23, 9:9, 16:8, 21:20, 23:8, 29:10, 31:9, 33:9, 36:11, 39:9, 40:11  
**fills** [1] - 20:6  
**financially** [2] - 27:13, 42:13  
**findings** [1] - 39:14  
**FINDINGS** [6] - 29:13, 31:12, 33:12, 36:14, 39:12, 40:14  
**fine** [2] - 11:11, 11:12  
**finish** [1] - 19:17  
**first** [5] - 2:14, 4:6, 4:19, 6:24, 15:12  
**first-floor** [2] - 4:6, 4:19  
**five** [1] - 11:8  
**flood** [1] - 18:24  
**floor** [21] - 3:9, 3:11, 3:12, 4:6, 4:13, 4:19, 6:20, 6:22, 23:4, 23:7, 25:16, 29:5, 29:7, 29:8, 29:15, 29:25, 31:6, 31:8, 31:13, 40:7, 40:9  
**following** [2] - 28:17, 28:18  
**font** [1] - 14:5  
**foot** [3] - 17:10, 24:15, 33:16  
**footage** [2] - 8:16, 31:17  
**footprint** [3] - 5:13, 29:17, 31:22  
**footprints** [1] - 31:18  
**Forbes** [2] - 1:23, 28:22  
**foregoing** [2] - 27:6, 42:6  
**forward** [2] - 6:10, 24:24  
**four** [2] - 7:23, 23:13  
**foyer** [3] - 7:21, 8:15, 24:21  
**Freelance** [2] - 27:24, 42:24  
**freezes** [1] - 4:10  
**front** [7] - 12:11, 12:14, 12:15, 15:8, 15:11, 24:21, 24:23  
**ft** [8] - 2:20, 2:21, 16:6, 21:19, 36:8, 36:9, 39:8  
**fully** [1] - 20:14  
**funds** [1] - 22:4  
**furniture** [1] - 17:4  
**garage** [33] - 7:17, 8:11, 8:16, 16:3, 16:5, 16:15, 16:19, 16:21, 17:3, 17:7, 18:14, 18:15, 18:16, 18:21, 19:6, 19:9, 19:11, 19:18, 19:22, 20:10, 20:15, 20:23, 20:25, 25:12, 31:25, 36:5, 36:8, 36:16, 36:17, 36:20, 36:25, 37:6, 37:18  
**garages** [2] - 37:9, 37:11  
**garden** [1] - 17:4  
**Garrett** [3] - 22:25, 23:10, 40:3  
**GARRETT** [11] - 23:9, 23:13, 23:20, 23:23, 24:3, 24:9, 24:14, 25:9, 25:24, 26:3, 26:9  
**general** [1] - 12:23  
**generous** [1] - 36:21  
**GENESEE** [2] - 27:3, 42:3  
**Genesee** [4] - 27:15, 27:25, 42:15, 42:25  
**given** [5] - 5:13, 32:5, 34:16, 36:20, 41:5  
**granted** [1] - 34:14  
**granting** [1] - 33:13  
**great** [2] - 15:10, 26:9  
**green** [5] - 18:10, 18:19, 18:23, 19:2  
**ground** [4] - 14:11, 14:14, 15:11, 15:13  
**Group** [2] - 9:4, 33:4  
**group** [1] - 12:6  
**grow** [1] - 11:25  
**guidelines** [1] - 12:24  
**guy** [1] - 17:21  
**half** [3] - 10:11, 10:12, 17:11  
**halfway** [1] - 26:6  
**Hall** [2] - 1:5, 28:5  
**hallway** [1] - 25:12  
**hand** [2] - 27:14, 42:14  
**handling** [1] - 12:7  
**happy** [1] - 6:8  
**hardship** [1] - 37:10  
**health** [3] - 12:13, 12:17, 37:13  
**heard** [1] - 3:5  
**hearing** [8] - 6:15, 8:25, 14:22, 14:24, 15:22, 21:12, 22:24, 26:13  
**HEARING** [1] - 2:24  
**heated** [1] - 21:2  
**heating** [3] - 20:15, 20:16, 20:17  
**height** [8] - 11:22, 12:21, 16:6, 16:7, 36:9, 36:18, 36:19  
**HELD** [2] - 1:2, 28:2  
**hereby** [2] - 27:4, 42:4  
**herein** [1] - 34:14  
**hi** [1] - 9:10  
**high** [2] - 21:19, 39:8  
**hill** [2] - 3:25, 5:17  
**Hill** [3] - 3:8, 3:24, 29:4  
**Hills** [1] - 5:4  
**hillside** [2] - 5:20, 5:21  
**Hillside** [3] - 5:22, 7:10  
**hold** [2] - 23:16, 39:17  
**home** [6] - 8:4, 8:7, 16:13, 19:19, 36:21, 37:6  
**homes** [4] - 17:25, 18:2, 36:23, 37:8  
**hook** [1] - 19:25  
**hope** [1] - 22:9  
**hour** [1] - 18:24  
**house** [36] - 2:20, 3:3, 3:25, 4:5, 4:15, 4:20, 4:21, 4:23, 5:3, 5:6, 5:13, 5:14, 6:3, 7:13, 16:10, 16:14, 17:15, 17:23, 18:21, 18:24, 19:9, 19:13, 19:15, 19:16, 20:5, 20:21, 24:21, 24:23, 25:10, 25:17, 25:21, 26:6, 29:17, 29:18, 29:19  
**houses** [2] - 29:23, 33:24  
**Howard** [3] - 6:18, 7:7, 31:4  
**huge** [1] - 18:14  
**ice** [4] - 4:4, 4:14, 4:18, 30:5  
**ice-dam** [1] - 30:5  
**ice-damming** [1] - 4:18  
**ID** [1] - 2:18  
**identical** [1] - 22:16  
**identification** [6] - 9:20, 9:21, 10:15, 10:20, 13:8, 13:12  
**identifier** [2] - 11:21, 11:24  
**identify** [1] - 12:11  
**illuminated** [2] - 14:15, 14:16

**immediately** [1] - 25:11  
**impact** [2] - 29:21, 34:7  
**implication** [1] - 7:19  
**important** [1] - 6:25  
**Inc** [4] - 21:16, 23:2, 39:5, 40:4  
**inch** [2] - 12:24, 18:24  
**inches** [5] - 11:18, 11:22, 12:22, 12:25, 36:18  
**increase** [9] - 3:10, 4:23, 6:20, 23:5, 29:6, 29:17, 29:19, 31:6, 40:7  
**increases** [1] - 29:14  
**increasing** [1] - 18:8  
**information** [1] - 28:17  
**initial** [2] - 12:22, 14:7  
**inside** [1] - 25:11  
**installed** [1] - 4:8  
**installing** [1] - 20:24  
**instance** [1] - 10:17  
**instead** [2] - 19:15, 34:11  
**interested** [2] - 27:13, 42:13  
**interior** [5] - 6:21, 7:12, 31:7, 31:24, 31:25  
**internal** [1] - 7:16  
**internally** [1] - 34:17  
**interpretation** [1] - 11:10  
**interpreted** [1] - 13:11  
**irregular** [1] - 29:24  
**irregular-shaped** [1] - 29:24  
**issue** [1] - 20:8  
**issues** [4] - 4:4, 4:14, 12:10, 12:17  
**itself** [1] - 14:12  
**Jack** [1] - 2:15  
**James** [3] - 2:16, 22:25, 40:3  
**JEANNE** [2] - 1:10, 28:10  
**Jim** [2] - 23:2, 40:4  
**John** [1] - 6:25  
**Jon** [2] - 6:17, 31:3  
**keep** [3] - 6:6, 12:4, 12:18  
**keeping** [1] - 31:14  
**kids** [1] - 7:22  
**kind** [2] - 9:18, 20:5  
**kitchen** [2] - 25:12, 25:17  
**known** [1] - 2:18  
**Lady** [2] - 21:14, 39:3  
**land** [2] - 5:16, 5:18  
**landed** [1] - 10:8  
**Lane** [12] - 15:25, 17:25, 18:3, 19:8, 20:7, 23:3, 23:19, 23:25, 36:4, 40:5  
**large** [6] - 3:25, 5:15, 5:16, 5:24, 24:21, 36:21  
**larger** [6] - 9:13, 10:6, 31:17, 37:3, 37:12  
**largest** [1] - 5:3  
**last** [1] - 22:14  
**LAUREN** [6] - 1:22, 27:4, 27:23, 28:21, 42:4, 42:23  
**layout** [3] - 7:14, 13:22, 34:11  
**leads** [2] - 25:11, 25:15  
**leak** [1] - 30:5  
**leakage** [2] - 4:5, 4:17  
**leaks** [1] - 4:12  
**left** [1] - 10:11  
**LEIT** [7] - 1:11, 8:3, 8:6, 17:24, 18:25, 19:6, 28:11  
**Leit** [9] - 30:14, 32:10, 34:22, 34:25, 36:12, 38:2, 39:21, 41:8, 41:11  
**less** [3] - 16:21, 37:7, 40:16  
**lessee** [4] - 9:3, 21:15, 33:3, 39:4  
**letter** [2] - 12:21, 23:18  
**letters** [2] - 12:21, 23:13  
**LFA** [3] - 5:6, 5:7, 5:9  
**LFAs** [1] - 5:2  
**lieu** [9] - 2:21, 9:7, 16:3, 16:6, 33:7, 36:6, 36:9, 36:16, 36:18  
**lighting** [1] - 14:10  
**likely** [1] - 5:25  
**limited** [1] - 37:20  
**lit** [5] - 10:9, 14:13, 34:17, 34:18, 34:19  
**literally** [2] - 7:20, 8:12  
**livable** [15] - 3:9, 3:12, 6:20, 6:22, 23:4, 23:7, 29:5, 29:8, 29:14, 29:25, 31:6, 31:8, 31:13, 40:6, 40:9  
**livable-floor** [1] - 29:25  
**living** [3] - 24:16, 25:17, 31:25  
**LLC** [2] - 9:4, 33:4  
**located** [15] - 2:17, 3:8, 5:12, 6:18, 9:4, 15:25, 21:16, 23:3, 29:4, 31:4, 33:4, 36:4, 36:22, 39:5, 40:5  
**location** [3] - 4:22, 33:17, 34:15  
**logical** [2] - 11:7, 15:3  
**LOMONACO** [3] - 17:12, 17:17, 17:21  
**Lomonaco** [1] - 17:21  
**look** [5] - 15:14, 15:15, 19:18, 24:3, 24:11  
**looking** [5] - 4:20, 10:2, 12:25, 17:5, 19:7  
**looks** [1] - 22:13  
**lower** [2] - 10:3, 12:23  
**lowest** [1] - 16:19  
**ma'am** [1] - 22:15  
**machine** [2] - 27:5, 42:5  
**main** [1] - 25:17  
**maintain** [3] - 11:19, 17:14  
**management** [2] - 12:7, 12:9  
**manner** [1] - 29:24  
**Marathon** [1] - 21:22  
**March** [7] - 1:3, 1:5, 2:3, 22:7, 28:3, 28:5, 39:15  
**matches** [1] - 25:20  
**materials** [1] - 7:11  
**matter** [3] - 6:25, 10:9, 10:24  
**maximum** [13] - 3:12, 6:21, 9:7, 16:4, 16:6, 23:6, 29:8, 31:7, 33:7, 36:6, 36:9, 36:18, 40:9  
**mean** [4] - 10:7, 14:18, 15:2, 15:6  
**medical** [1] - 33:25  
**Medicine** [11] - 9:21, 9:24, 10:10, 10:16, 10:18, 10:19, 10:25, 11:2, 11:3, 11:5, 11:23  
**medicine** [1] - 9:22  
**meeting** [2] - 2:5, 3:6, 2:25  
**MEETING** [2] - 2:23, 29:3  
**Mendoza** [2] - 3:7, 13:3  
**Mendoza** [3] - 3:18, 3:20, 3:22  
**Mendosas** [1] - 6:5  
**Mercy** [5] - 21:14, 21:15, 21:23, 39:3, 39:4  
**method** [1] - 33:23  
**Michael** [3] - 3:7, 16:12, 29:3  
**middle** [1] - 15:5  
**MIETZ** [24] - 1:9, 2:2, 2:9, 2:13, 6:9, 6:12, 7:5, 8:18, 8:22, 14:17, 14:25, 15:15, 20:15, 20:20, 21:6, 21:9, 22:17, 22:21, 24:7, 24:13, 25:3, 26:7, 26:10, 28:9  
**Mietz** [7] - 30:13, 31:10, 32:9, 34:24, 37:25, 39:20, 41:10  
**Mike** [3] - 3:22, 15:24, 36:3  
**minimum** [2] - 2:21, 31:23  
**miscellaneous** [1] - 17:4  
**missing** [1] - 14:2  
**Model** [1] - 16:25  
**modern** [2] - 16:25, 37:3  
**modified** [1] - 4:8  
**modify** [1] - 31:25  
**money** [1] - 22:11  
**Monteroy** [4] - 6:19, 7:3, 7:9, 31:5  
**Morris** [2] - 23:2, 40:4  
**most** [2] - 5:25, 8:9  
**Motion** [6] - 29:11, 31:10, 33:10, 36:12, 39:10, 40:12  
**motion** [6] - 30:15, 32:11, 35:2, 38:3, 39:22, 41:12  
**move** [2] - 16:18, 18:15  
**moved** [3] - 19:6, 22:2, 22:7  
**moving** [1] - 7:20

19:9, 20:3  
**neighborhood** [12] - 5:2, 5:4, 5:12, 6:3, 29:23, 31:15, 31:16, 31:19, 33:15, 34:8, 37:4, 40:19  
**neighborhoods** [1] - 37:8  
**neighbors** [3] - 20:7, 25:25, 26:3  
**net** [1] - 7:16  
**neurosurgeon** [1] - 12:9  
**neurosurgeons** [1] - 14:22  
**Neurosurgery** [2] - 10:19, 11:2  
**neurosurgery** [1] - 12:6  
**never** [1] - 9:17  
**new** [7] - 3:3, 16:19, 18:12, 18:15, 19:18, 36:20, 37:6  
**NEW** [4] - 1:2, 27:2, 28:2, 42:2  
**New** [9] - 1:6, 1:24, 3:17, 27:15, 27:25, 28:6, 28:23, 42:15, 42:25  
**next** [3] - 22:3, 22:7, 22:10  
**nonconforming** [2] - 13:16, 13:18  
**none** [6] - 6:15, 8:25, 15:22, 21:12, 22:24, 26:13  
**nonuniform** [1] - 29:24  
**normally** [1] - 20:25  
**north** [2] - 2:21, 24:11  
**Notary** [2] - 27:24, 42:24  
**nothing** [1] - 11:6  
**noticeably** [1] - 29:19  
**NYPPAW** [2] - 21:15, 39:4  
**obtained** [5] - 30:10, 32:6, 34:21, 37:22, 41:7  
**obviously** [4] - 24:15, 24:19, 24:22, 25:20  
**occupational** [2] - 12:12, 12:17  
**occupational-health** [1] - 12:17  
**occur** [1] - 20:9  
**occurs** [1] - 4:14  
**OF** [12] - 1:2, 27:2, 27:3, 28:2, 29:13, 31:12, 33:12, 36:14, 39:12, 40:14, 42:2, 42:3  
**office** [1] - 3:16  
**once** [1] - 17:9  
**one** [15] - 7:20, 9:19, 11:7, 13:11, 17:24, 18:2, 18:3, 20:7, 23:17, 24:2, 24:3, 24:8, 36:25, 37:12  
**one's** [1] - 23:25  
**one-car** [1] - 36:25  
**open** [3] - 5:16, 7:15, 20:11  
**OPEN** [1] - 2:24  
**opening** [1] - 8:14  
**opposed** [1] - 7:23  
**optimally** [1] - 13:2  
**option** [2] - 13:22, 13:23  
**order** [1] - 2:3  
**original** [2] - 16:16, 39:14  
**originally** [3] - 9:17, 13:11, 17:2  
**otherwise** [1] - 22:13  
**outside** [2] - 20:23, 20:25  
**overall** [2] - 16:24, 33:21  
**overbuilt** [1] - 8:16  
**owned** [2] - 5:19, 5:22  
**owner** [11] - 3:7, 9:4, 15:24, 16:13, 21:16, 23:2, 29:3, 33:4, 36:3, 39:5, 40:5  
**owners** [4] - 2:16, 4:7, 6:18, 31:4  
**P.M** [2] - 1:3, 28:3  
**packet** [2] - 9:14, 14:2  
**pad** [1] - 20:23  
**page** [1] - 14:2  
**pages** [2] - 27:6, 42:6  
**pain** [2] - 12:7, 12:8  
**pain-management** [1] - 12:7  
**panels** [1] - 13:12  
**park** [1] - 34:5  
**parking** [7] - 12:18, 15:5, 15:12, 34:3, 34:4, 34:12, 37:2  
**part** [4] - 14:19, 16:16, 16:19, 31:24  
**parties** [2] - 27:11, 42:11  
**Partners** [2] - 10:20, 11:2  
**patient** [1] - 12:8  
**patients** [4] - 12:5, 12:7, 12:8, 14:23  
**paved** [1] - 18:17  
**pavement** [1] - 18:5  
**paving** [1] - 18:12  
**PEACOCK** [4] - 3:15, 3:20, 5:21, 6:11  
**Peacock** [1] - 3:16  
**peak** [2] - 16:20, 16:21  
**pediatric** [1] - 12:12  
**Pediatric** [1] - 11:2  
**people** [5] - 9:16, 10:2, 12:16, 24:9, 24:22  
**percent** [4] - 5:7, 5:9, 29:15, 40:16  
**percentages** [1] - 30:2  
**permits** [5] - 30:10, 32:6, 34:20, 37:21, 41:6  
**permitted** [3] - 5:6, 5:7, 24:16  
**personal** [2] - 27:7, 42:7  
**physical** [3] - 5:13, 15:3, 34:7  
**Pinkowski** [3] - 15:24, 16:12, 36:3  
**PINKOWSKI** [15] - 16:9, 16:12, 17:13, 18:2, 18:6, 18:9, 18:13, 19:4, 19:7, 19:20, 19:23, 20:13, 20:17, 20:22, 21:8  
**Pittsford** [1] - 2:7  
**place** [2] - 15:2, 15:4  
**placed** [1] - 15:3  
**plan** [2] - 16:18, 22:13  
**planned** [1] - 20:17  
**planning** [3] - 19:24, 20:22, 22:10  
**plans** [13] - 2:22, 3:13, 6:23, 9:8, 16:8, 21:20, 23:8, 29:9, 31:9, 33:8, 36:10, 39:9, 40:10  
**podium** [1] - 7:24  
**point** [2] - 10:15, 20:18  
**pool** [7] - 17:3, 19:23, 20:2, 20:18, 20:20, 21:4, 37:20  
**pool-water** [1] - 37:20  
**porch** [2] - 4:6, 19:11  
**portion** [6] - 10:3, 10:23, 11:22, 12:2, 14:14, 18:14  
**Post** [1] - 2:7  
**POSTPONED** [1] - 2:24  
**postponed** [1] - 3:5  
**poststroke** [1] - 12:7  
**potentially** [1] - 17:8  
**practice** [2] - 12:13, 13:13  
**PRESENT** [2] - 1:8, 28:8  
**present** [3] - 2:12, 5:5, 37:14  
**presented** [2] - 28:17, 39:14  
**pretty** [3] - 6:10, 22:17, 24:24  
**previous** [3] - 4:7, 39:17, 39:23  
**primary** [1] - 30:3  
**private** [2] - 18:3, 36:22  
**problem** [1] - 30:5  
**problems** [1] - 6:4  
**proceeding** [2] - 27:9, 42:9  
**PROCEEDINGS** [2] - 1:2, 28:2  
**process** [2] - 4:16, 4:18  
**produce** [2] - 33:14, 37:2  
**project** [2] - 22:4, 32:5  
**properly** [1] - 2:5  
**properties** [4] - 31:16, 33:15, 40:20, 40:22  
**property** [24] - 2:17, 3:8, 3:23, 5:16, 5:18, 6:18, 7:9, 9:4, 15:25, 16:19, 16:20, 18:20, 21:16, 23:3, 25:22, 29:4, 31:4, 33:4, 33:17, 36:3, 39:5, 40:5, 40:17, 40:22  
**proportionate** [1] - 36:21  
**proportionately** [1] - 31:17  
**proposed** [4] - 29:16, 31:13, 33:18, 34:6  
**provide** [1] - 40:25  
**public** [5] - 6:15, 8:25, 15:22, 21:12, 26:13  
**Public** [2] - 27:24, 42:24  
**PUBLIC** [1] - 2:23  
**purchased** [2] - 16:10, 16:14  
**pursuant** [3] - 21:18, 28:18, 39:7  
**pushing** [1] - 7:17  
**put** [5] - 9:16, 10:9, 11:8, 15:11, 20:2  
**putting** [1] - 20:23  
**questions** [10] - 6:7, 6:9, 8:2, 8:19, 15:18, 21:6, 22:5, 22:18, 25:3, 26:7  
**quick** [2] - 10:18, 13:21  
**quite** [1] - 4:4  
**rain** [1] - 18:24  
**raise** [1] - 22:3  
**raised** [1] - 22:11  
**Randall** [1] - 3:16  
**range** [2] - 4:24, 29:25  
**rarely** [1] - 24:22  
**read** [1] - 2:14  
**ready** [1] - 2:13  
**Real** [2] - 9:4, 33:3  
**real** [1] - 10:18  
**realized** [1] - 4:3  
**realizing** [1] - 12:19  
**really** [3] - 10:2, 15:10, 25:12  
**rear** [6] - 4:5, 4:14, 4:21, 26:4, 26:5, 29:18  
**reason** [1] - 12:4  
**reasonably** [1] - 33:23  
**received** [1] - 21:25  
**reclassifying** [1] - 13:19  
**record** [5] - 2:11, 8:3, 17:20, 27:8, 42:8  
**reduce** [2] - 11:18, 33:20  
**reducing** [1] - 11:7  
**reflect** [1] - 19:18  
**regarding** [8] - 6:14, 8:23, 9:19, 15:21, 21:10, 22:22, 26:11, 32:5  
**regranted** [1] - 33:19  
**regrets** [1] - 6:24  
**relative** [2] - 27:11, 42:11  
**remain** [1] - 5:25  
**REMAINS** [1] - 2:24  
**renovation** [2] - 7:12, 7:17

**renovations** [2] - 4:25  
 6:21, 31:7  
**repair** [1] - 30:4  
**repairing** [1] - 4:17  
**repeated** [1] - 11:3  
**replace** [1] - 33:19  
**Reported** [2] - 1:22, 28:21  
**reported** [2] - 27:5, 42:5  
**Reporter** [2] - 27:24, 42:24  
**Reporting** [2] - 1:23, 28:22  
**REQUEST** [1] - 2:25  
**request** [7] - 9:11, 11:17, 23:15, 24:12, 24:14, 30:3, 31:23  
**requested** [4] - 29:14, 33:13, 36:15, 40:15  
**requesting** [1] - 21:24  
**required** [2] - 2:21, 28:18  
**requirements** [1] - 16:25  
**resolve** [1] - 6:4  
**resolving** [1] - 4:17  
**rest** [2] - 17:23, 25:20  
**result** [6] - 18:19, 31:20, 31:24, 37:5, 40:20, 40:25  
**Review** [1] - 41:6  
**review** [1] - 28:18  
**Richard** [1] - 23:9  
**Rick** [5] - 2:5, 3:18, 5:22, 9:12, 13:6  
**RICK** [2] - 1:13, 28:13  
**Road** [8] - 3:8, 6:19, 7:3, 7:9, 21:16, 29:4, 31:5, 39:5  
**road** [6] - 4:2, 16:17, 18:3, 19:2, 36:22, 37:7  
**ROCHESTER** [2] - 1:2, 28:2  
**Rochester** [6] - 1:6, 3:17, 9:11, 10:25, 25:24, 28:6  
**roll** [7] - 2:10, 30:15, 32:11, 35:2, 38:3, 39:22, 41:12  
**roof** [5] - 4:4, 4:8, 4:11, 30:5  
**roof-leak** [1] - 30:5  
**roofing** [1] - 4:9  
**room** [3] - 4:7, 4:18, 4:25  
**row** [1] - 15:12  
**run** [1] - 18:21  
**running** [1] - 19:24  
**sac** [1] - 36:22  
**safety** [1] - 37:13  
**sanitary** [1] - 37:19  
**scape** [2] - 18:23, 19:16  
**scattered** [1] - 29:23  
**Schick** [3] - 6:17, 6:25, 31:3  
**School** [2] - 21:14, 39:3  
**Schwartz** [1] - 2:12  
**secluded** [1] - 36:22  
**second** [6] - 3:11, 4:13, 5:3, 23:17, 25:16, 29:7  
**Seconded** [6] - 30:11, 32:7, 34:22, 37:23, 39:18, 41:8  
**Secretary** [2] - 1:14, 28:14  
**Section** [15] - 2:19, 3:9, 6:19, 9:6, 16:2, 16:5, 21:18, 23:4, 29:5, 31:5, 33:5, 36:5, 36:7, 39:7, 40:6  
**sections** [1] - 34:2  
**see** [7] - 9:14, 10:18, 13:3, 13:23, 19:3, 19:12, 19:14  
**seeks** [1] - 12:8  
**self** [3] - 30:4, 34:11, 37:10  
**self-created** [3] - 30:4, 34:11, 37:10  
**semantics** [1] - 10:25  
**sense** [1] - 12:3  
**separate** [1] - 34:2  
**SEQRA** [1] - 28:18  
**session** [1] - 2:3  
**set** [1] - 7:22  
**setback** [1] - 2:20  
**setbacks** [1] - 24:25  
**several** [1] - 37:7  
**sewer** [2] - 19:25, 37:19  
**sf** [24] - 3:10, 3:12, 6:21, 6:22, 9:7, 16:3, 16:4, 23:5, 23:7, 29:6, 29:8, 31:7, 31:8, 33:7, 36:6, 40:7, 40:9  
**shall** [7] - 30:10, 32:6, 34:17, 37:18, 37:19, 37:21, 41:7  
**shaped** [1] - 29:24  
**Sharon** [1] - 2:16  
**SHERWOOD** [6] - 1:22, 27:4, 27:23, 28:21, 42:4, 42:23  
**shoes** [1] - 7:22  
**short** [1] - 6:6  
**shorthand** [2] - 27:5, 42:5  
**shortly** [1] - 4:3  
**show** [1] - 2:11  
**side** [11] - 2:20, 2:21, 4:21, 5:17, 24:18, 24:20, 24:25, 25:10, 25:13, 26:6, 40:22  
**sides** [2] - 25:6, 41:2  
**Siegrist** [1] - 2:15  
**Sign** [2] - 9:5, 33:5  
**sign** [32] - 9:6, 9:12, 9:16, 9:21, 10:3, 10:4, 10:5, 10:15, 10:21, 11:16, 11:21, 11:22, 11:25, 13:7, 13:8, 13:12, 13:22, 14:5, 14:12, 14:14, 15:2, 15:14, 23:10, 33:6, 33:16, 33:18, 33:19, 33:20, 33:24, 34:2, 34:15, 34:17  
**signage** [3] - 9:24, 23:10, 33:20  
**significantly** [2] - 6:2, 6:3  
**signs** [1] - 9:19  
**similar** [2] - 31:18, 33:20  
**single** [2] - 2:19, 11:3  
**Sisters** [3] - 21:15, 21:23, 39:4  
**site** [4] - 5:14, 13:22, 14:25, 33:20  
**sits** [2] - 3:25, 18:17  
**sitting** [1] - 19:10  
**size** [13] - 11:25, 12:4, 14:5, 14:8, 16:3, 16:24, 18:8, 29:19, 31:18, 36:6, 36:16, 40:16, 40:23  
**sleep** [3] - 10:8, 10:9, 14:24  
**Sleep** [3] - 10:10, 10:16, 11:2  
**slightest** [1] - 14:7  
**slightly** [1] - 24:19  
**slope** [3] - 5:17, 18:20, 20:6  
**sloped** [1] - 5:17  
**slopes** [1] - 17:15  
**sloping** [1] - 16:20  
**small** [2] - 8:7, 12:17  
**smaller** [3] - 12:2, 13:3, 37:12  
**so..** [1] - 21:3  
**sorry** [7] - 3:19, 5:21, 7:7, 8:11, 11:15, 18:6, 18:7  
**sort** [1] - 15:16  
**sought** [1] - 33:22  
**South** [2] - 9:5, 33:5  
**south** [1] - 5:17  
**southeast** [1] - 4:20  
**space** [12] - 4:19, 7:23, 17:7, 18:10, 18:19, 19:2, 20:18, 24:20, 25:18, 29:16, 32:2  
**spine** [1] - 12:10  
**spot** [3] - 12:19, 15:7, 15:10  
**spring** [1] - 22:3  
**square** [11] - 4:23, 7:19, 8:15, 9:13, 24:15, 31:14, 31:17, 33:16, 33:19, 36:16, 36:17  
**square-foot** [1] - 33:16  
**staircase** [1] - 25:15  
**stand** [1] - 5:15  
**standalone** [1] - 19:15  
**standpoint** [1] - 11:14  
**stands** [1] - 5:7  
**start** [1] - 22:9  
**starting** [1] - 22:10  
**state** [6] - 7:5, 7:6, 16:11, 17:19, 27:15, 42:15  
**STATE** [2] - 27:2, 42:2  
**stays** [2] - 17:22, 20:21  
**still** [1] - 22:3  
**storage** [1] - 20:18  
**straight** [2] - 6:10, 24:24  
**street** [5] - 4:22, 24:4, 24:8, 24:10, 29:20  
**structure** [5] - 30:7, 31:22, 31:25, 37:16, 41:4  
**stuff** [1] - 20:18  
**styled** [2] - 27:5, 42:5  
**subject** [1] - 31:16  
**submitted** [3] - 13:21, 32:4, 41:5  
**substantial** [6] - 29:15, 31:14, 33:16, 36:20, 37:5, 40:15  
**supervision** [2] - 27:8, 42:8  
**support** [2] - 23:14, 24:5  
**supposed** [1] - 13:22  
**surrounding** [4] - 5:14, 21:19, 21:25, 39:8  
**SUV** [1] - 17:8  
**sweet** [1] - 6:6  
**system** [1] - 19:25  
**table** [1] - 4:25  
**TABLED** [1] - 2:23  
**tall** [1] - 12:22  
**Tax** [1] - 2:18  
**tearing** [1] - 4:10  
**technically** [1] - 11:4  
**Templeton** [1] - 7:10  
**tenant** [1] - 11:4  
**tenants** [3] - 9:22, 9:25, 10:22  
**tends** [1] - 12:9  
**tennis** [3] - 21:19, 22:2, 39:8  
**testimony** [8] - 27:9, 30:9, 32:5, 34:16, 37:17, 39:14, 41:5, 42:9  
**thaws** [1] - 4:11  
**THE** [4] - 1:2, 2:23, 2:24, 28:2  
**the..** [1] - 5:19  
**three** [4] - 17:7, 24:8, 36:20, 37:9  
**three-car** [3] - 17:7, 36:20, 37:9  
**throw** [1] - 7:22  
**tied** [1] - 6:25  
**tight** [1] - 25:18  
**TO** [1] - 2:24  
**today's** [2] - 16:25, 37:12  
**TOMPKINS** [10] - 1:10, 13:6, 13:15, 13:20, 13:25, 14:4, 14:9, 19:21, 22:6, 28:10  
**Tompkins** [9] - 30:11, 30:12, 32:8, 33:10, 34:23, 37:23, 37:24, 39:19, 41:9  
**tonight** [1] - 3:17  
**top** [3] - 4:19, 11:24, 13:21  
**torn** [1] - 4:11  
**total** [3] - 11:25, 31:22, 40:16  
**touched** [1] - 16:22

**tough** [2] - 14:25,  
15:6  
**Town** [4] - 1:5, 1:12,  
28:5, 28:12  
**tractors** [1] - 17:4  
**trading** [1] - 18:10  
**traffic** [1] - 8:10  
**transcription** [2] -  
27:7, 42:7  
**trouble** [1] - 12:10  
**true** [3] - 27:8, 39:17,  
42:8  
**truly** [1] - 10:3  
**trying** [5] - 7:12,  
12:18, 13:5, 17:22,  
22:3  
**tucked** [1] - 37:6  
**two** [5] - 18:2, 20:6,  
33:25, 34:2, 36:23  
**type** [4] - 12:8,  
24:23, 25:2, 25:21  
**typed** [2] - 27:6, 42:6  
**ugly** [1] - 19:15  
**umbrella** [2] - 9:23,  
11:5  
**unacceptable** [2] -  
37:4, 40:18  
**under** [5] - 9:22,  
11:4, 12:2, 27:7, 42:7  
**undesirable** [1] -  
33:14  
**undeveloped** [1] -  
5:25  
**University** [1] - 9:11  
**up** [11] - 3:25, 6:25,  
8:14, 9:16, 14:11,  
18:14, 18:18, 18:23,  
19:25, 20:6, 24:4  
**UR** [12] - 9:20, 9:22,  
9:24, 10:10, 10:15,  
10:17, 10:19, 10:25,  
11:2, 11:3, 11:4,  
11:23  
**URMC** [4] - 9:3, 9:20,  
14:18, 33:3  
**uses** [1] - 33:25  
**utilities** [2] - 19:21,  
37:18  
**Variance** [13] - 2:19,  
3:9, 6:19, 9:5, 16:2,  
16:5, 23:4, 29:5, 31:5,  
33:5, 36:4, 36:7, 40:6  
**variance** [20] - 9:11,  
9:17, 17:6, 21:17,  
21:25, 23:14, 24:11,  
29:14, 30:3, 30:7,  
31:20, 33:13, 34:6,  
34:14, 36:15, 37:16,  
39:6, 40:15, 40:21,  
41:4

**vehicle** [1] - 16:25  
**vehicles** [2] - 17:3,  
37:3  
**vestibule** [2] - 8:8,  
8:12  
**view** [1] - 19:16  
**View** [4] - 3:8, 3:23,  
5:4, 29:4  
**viewed** [1] - 13:2  
**viewing** [2] - 11:13,  
12:24  
**visible** [4] - 4:21,  
16:16, 31:21, 37:7  
**visiting** [1] - 12:6  
**walk** [2] - 8:7, 12:14  
**walking** [1] - 12:10  
**walkway** [1] - 20:11  
**wall** [4] - 4:15, 7:17,  
7:20, 14:14  
**water** [6] - 18:21,  
18:22, 19:24, 20:3,  
37:19, 37:20  
**welfare** [1] - 37:13  
**Whitewood** [5] -  
23:3, 23:19, 23:25,  
40:5  
**whole** [1] - 10:14  
**wide** [3] - 7:24,  
25:14, 29:25  
**width** [1] - 11:18  
**wife's** [1] - 17:8  
**windows** [1] - 14:15  
**wintertime** [1] -  
20:24  
**WITNESS** [2] -  
27:14, 42:14  
**Women** [2] - 21:15,  
39:4  
**Woodcrest** [2] -  
1:23, 28:22  
**wooded** [2] - 5:18,  
5:24  
**Wright** [9] - 30:11,  
30:12, 32:8, 33:10,  
34:23, 37:23, 37:24,  
39:19, 41:9  
**WRIGHT** [10] - 1:10,  
13:6, 13:15, 13:20,  
13:25, 14:4, 14:9,  
19:21, 22:6, 28:10  
**yard** [2] - 20:4, 20:6  
**year** [5] - 8:4, 21:4,  
22:10, 22:14  
**years** [2] - 3:24  
**YORK** [4] - 1:2, 27:2,  
28:2, 42:2  
**York** [9] - 1:6, 1:24,  
3:17, 27:15, 27:25,  
28:6, 28:23, 42:15,  
42:25