

BOROUGH OF GARWOOD
PLANNING BOARD

In the Matter of: :
 : Transcript
HOME DEPOT USA, INC., d/b/a :
GARWOOD, LLC : of
224 South Avenue :
Block 501, Lot 1.05 : Proceedings
-----x

Wednesday, August 26, 2015
403 South Avenue
Garwood, New Jersey
Commencing at 8:13 p.m.

B E F O R E:

KATHLEEN VILLAGIO Chairwoman
CHARLES LOMBARDO, Mayor (recused)
WILLIAM NIERSTEDT, Councilman (recused)
STEPHEN NAPOLITANO
PAUL TARANTINO
GENE JANNOTTI
MICHAEL VENA
CRAIG McCARRICK
ROBERT SCHERER
TIM HAK
PAT QUATTROCHI (recused)

ADELE LEWIS, Board Secretary
VICTOR VINEGRA, Zoning Code Official

A P P E A R A N C E S:

PERROTTA, FRASER & FORRESTER, LLC
BY: DONALD B. FRASER JR., ESQUIRE
Attorneys for the Board

GIORDANO, HALLERAN & CIESLA, P.C.
BY: JOHN A. GIUNCO, ESQUIRE
Attorneys for the Applicant

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1 TABLE OF CONTENTS

2 WITNESS PAGE

3 Alfred Coco 4

4 John Rea 35

5 Justin Auciello 40

6 Tariz Lavergne 49

7 E X H I B I T S

8 NO DESCRIPTION PAGE

9 A-1 Original site plan 7

10 A-2 Revised site plan 10

1 applicant, Home Depot. This is, in fact, an

2 application which seeks a use variance to permit

3 outdoor sales and storage, which is permitted,

4 and to seek several other variances, in order to

5 permit the opportunity to increase the sales

6 area for outdoor display, and the time for use

7 of that.

8 And we have this evening our

9 engineer, Fred Coco from Menlo Engineering; John

10 Rea, our traffic consultant, who analyzed the

11 parking requirements; and Justin Auciello, our

12 professional planner.

13 So we're actually prepared to

14 begin, and I did provide to Ms. Lewis the proof

15 of service, and acknowledgments of what our

16 notice was, and the proofs of the publication.

17 **CHAIRWOMAN VILLAGIO:** Thank you.

18 **MR. GIUNCO:** With your permission,

19 then, I'd like to call Fred Coco. I'm going to

20 offer him as an expert in the field of civil

21 engineering. So he'll present his credentials,

22 and I ask that he be sworn so we may begin.

23 A L F R E D C O C O, having been

24 duly sworn, testified as follows:

25 **MR. FRASER:** Please state and spell

1 **COMMISSIONER VENA:** All right.

2 Thank you everyone. Everybody here?

3 The second application is 224 South

4 Avenue, PB15-06. The applicant is Home Depot.

5 This is a use variance; therefore, it's a

6 seven-member board. The mayor and council are

7 to be recused.

8 **MAYOR LOMBARDO:** Thank you.

9 **COMMISSIONER NIERSTEDT:** Thank you.

10 **CHAIRWOMAN VILLAGIO:** Pat and Tim?

11 **COMMISSIONER QUATTROCHI:** I'm going

12 to recuse myself, as I have family involved.

13 **CHAIRWOMAN VILLAGIO:** Tim, would

14 you like to come up here?

15 **COMMISSIONER HAK:** Sure.

16 **MR. FRASER:** A seven-member board

17 will be voting; all eight can participate in

18 questioning and discussion.

19 All right. So this is a use

20 variance, as we just discussed. We require five

21 affirmative votes out of seven to be approved.

22 I see the applicant's counsel is here.

23 **MR. GIUNCO:** Mr. Chairman (sic),

24 members of the board, John Giunco of Giordano,

25 Halleran & Ciesla appearing on behalf of the

1 your name.

2 **THE WITNESS:** My name is Alfred

3 Coco, C-O-C-O. My business address is 261

4 Cleveland Avenue in Highland Park.

5 DIRECT EXAMINATION

6 **BY MR. GIUNCO:**

7 **Q. Fred, you're a licensed**

8 **professional engineer?**

9 A. Yes.

10 **Q. And have you appeared before this**

11 **board in a professional capacity?**

12 A. Not before this board, no.

13 **Q. I'm going to, then -- would you**

14 **provide to the board your credentials, in terms**

15 **of education and experience?**

16 A. Sure. I'm a licensed professional

17 engineer, land surveyor, and planner in the

18 State of New Jersey. I'm a graduate of Newark

19 College of Engineering, when it was Newark

20 College of Engineering, which was a long time

21 ago. I'm the president of Menlo Engineering

22 Associates, and for the last 30 years or so I've

23 been preparing plans such as this. And I've had

24 the privilege of working with Home Depot for

25 about 15, 20 years now, and was involved with a

1 lot of their original development. And since
2 that time, we've also done a lot of projects
3 throughout New Jersey for residential,
4 commercial, and other types of development, and
5 take care of approvals before boards such as
6 yourselves, as well as other state agencies.

7 **MR. FRASER:** Mr. Coco, in what
8 fields of expertise will you be testifying?

9 **THE WITNESS:** Just engineering
10 tonight, sir.

11 **MR. GIUNCO:** Civil engineering.

12 **MR. FRASER:** And your licenses are
13 current. Correct?

14 **THE WITNESS:** Yes, they are.

15 **MR. FRASER:** Madame Chairperson, I
16 recommend Mr. Coco be recognized as an expert in
17 the field of civil engineering.

18 **CHAIRWOMAN VILLAGIO:** Okay.

19 **BY MR. GIUNCO:**

20 **Q. Fred, could you identify the
21 location?**

22 A. Sure. I'm going to be referring to
23 a couple of exhibits.

24 **Q. Let me ask first: Did you or
25 others under your direction prepare these**

1 **MR. FRASER:** Sorry to interrupt.
2 Please proceed.

3 **THE WITNESS:** It's okay.

4 A. So the site is located on South
5 Avenue. Central Avenue is off to the left. I'm
6 sure everyone knows where this is. Kings
7 supermarket is here, we have Home Depot, and
8 their parking lot is off to the right, and we
9 have Taco Bell, and what is the, I think, used
10 car parcel over to the side there.

11 Essentially, we've got -- there's
12 three components to what we're requesting of the
13 board tonight:

14 The first is a temporary outdoor
15 storage area that would lie along the northerly
16 boundary on the side of the store. It's going
17 to be about 4 feet deep. And what we're asking
18 for is, between April 1st and August 31st, that
19 we be permitted to store bagged mulch and soil
20 in that area during that time period, August 1st
21 to August 31st.

22 The second component are two areas
23 on the basically straddle the store that we'd
24 like to be used for a permanent outdoor display
25 area, a place where both the store can put on

1 **exhibits for presentation this evening?**

2 A. Yes, we did. My office prepared
3 them.

4 **Q. And you're the project imageer?**

5 A. Yes.

6 The first exhibit is entitled Home
7 Depot Garwood. The site plan exhibit is dated
8 08/25. This is an aerial photograph on which
9 we've superimposed the proposed project. Just
10 for the record, the site is known as Block 501,
11 Lot 1.05. It contains approximately four acres
12 -- just slightly under four acres. And it's
13 address is 224 South Avenue.

14 As everyone probably knows, the
15 Home Depot --

16 **MR. FRASER:** Hold on, Mr. Coco.
17 The document you have there, is that part of the
18 application packets or not?

19 **THE WITNESS:** No, it's not.

20 **MR. FRASER:** I'm going to suggest
21 that be marked as A-1 with today's date. You
22 know how to do that, Mr. Coco.

23 **THE WITNESS:** Okay.

24 (Whereupon, Exhibit A-1 is marked
25 for identification.)

1 grills and things like that that are being sold
2 inside the store, but predominantly for display.
3 That area, in total, is slightly under 1,300
4 square feet.

5 And going back to the temporary
6 outdoor storage area, that's about 1,120 square
7 feet.

8 The biggest feature we have is, on
9 the plan as it was submitted, and on this
10 exhibit, we're proposing to use 21 automobile
11 spaces, and expand our area behind that for a
12 temporary -- temporary outdoor seasonal sales
13 and storage, which would take up to 21 parking
14 spaces. And we're going to be putting down
15 pervious pavers in that rear area, to give us a
16 total of about 7,192 square feet in this area
17 here. Other than that, all the site constraints
18 are the same.

19 As you know, as John indicated, we
20 need a use variance. And because we're reducing
21 the parking supply by 21 spaces, that reduces
22 the amount of parking spaces supplied to 152
23 parking spaces, which does not meet your parking
24 ordinance. So we're asking for a variance for
25 that. I'm going to say this for a second time:

1 That's as the plan as submitted to the board.

2 **Q. Did you modify the plan as**
3 **submitted to the board to present it this**
4 **evening?**

5 A. Yes, we have a second exhibit to --
6 I'm sorry, there's one other variance we're
7 seeking. Because we're expanding this area
8 here, your ordinance requires 15 percent open
9 space, and we currently have 16 percent. And
10 we're going to reduce that down to 11.6. So we
11 would need a variance for not providing the
12 amount of open space required by the ordinance.

13 So after I had a discussion with
14 Mr. Vinegra internally, we have an alternate
15 plan we'd like to show the board that modifies
16 this -- the number of spaces we would be
17 removing. What the alternate plan proposes is
18 on this exhibit, entitled Revised Site Plan
19 Exhibit. And we'll call this one A-2.

20 **COMMISSIONER SCHERER:** Can you
21 stand back a little bit?

22 **THE WITNESS:** Sure.
23 (Whereupon, Exhibit A-2 is marked
24 for identification.)

25 A. So what we're proposing now is that

1 **Q. Mr. Coco, how many parking spaces**
2 **are on the site today?**

3 A. The existing parking supply is 173.
4 During the seasonal time, the time we'd be using
5 this, it'll be reduced to 171 parking spaces on
6 the alternate plan.

7 **MR. FRASER:** How many are required?

8 **THE WITNESS:** 173. So we'd still
9 need a variance, but now for two spaces.

10 **BY MR. GIUNCO:**

11 **Q. Now, in terms of the design, are**
12 **there any modifications proposed, other than**
13 **what we're asking for these displays to the**
14 **proposed site?**

15 A. In order to make this function
16 properly, we're going to be -- we're going to
17 install a flush curb and some rubber -- there's
18 a detail of it on the plans -- a rubber barrier
19 that would prevent cars from driving in that
20 area when the seasonal sales area is not being
21 used. But that would only be in that one area.

22 Other than that, we have no other
23 site improvements proposed, subject to the
24 comments in Mr. Vinegra's letter that I can go
25 to in a little detail, if you'd like.

1 we would -- instead of removing all 21 parking
2 spaces, we would only remove two parking spaces.
3 And those two spaces, they would basically give
4 a refuge area for people coming through this
5 before they cross into the aisle.

6 And then, we still have this area
7 back here where we would put in the pervious
8 pavement, and still have our outdoor seasonal
9 area. And, again, this would be used between
10 April 1st and August 31st. And that area is
11 3,790 square feet, and the parking area would be
12 324 square feet, which gives us a total outdoor
13 sales -- temporary outdoor seasonal sales area
14 of 4,114 square feet. So we basically reduced
15 it by 3,000 square feet, and are now only taking
16 out two parking spaces instead of 21.

17 Mr. Vinegra points it out -- and
18 our traffic engineer also picked up on it --
19 that this was -- we were actually reducing the
20 parking supply by too much. So our alternate
21 plan that we're asking the board to consider is
22 this one: We're only removing the two spaces,
23 and still have the outdoor display area with the
24 same time restrictions and -- that I discussed
25 earlier.

1 **Q. Now, with regard to the sales --**
2 **the seasonal sales area will operate in the**
3 **normal hours of the Home Depot. Is that**
4 **correct?**

5 A. That's correct as well.

6 **Q. Okay. Are you familiar with the**
7 **types of products that will be generally sold or**
8 **displayed?**

9 A. I believe it's mostly plant
10 material, and there are some other garden-type
11 materials that are sold in that area during that
12 time.

13 **Q. So garden center types of products**
14 **and supplies?**

15 A. Correct.

16 **Q. I have another -- and you've had an**
17 **opportunity to review the review letter prepared**
18 **by Mr. Vinegra on behalf of the board. Is that**
19 **correct?**

20 A. Yes, I had the opportunity to
21 discuss it with him, and Mr. Vinegra is seeking
22 to have us put in a small stormwater structure
23 to offset some of the increase in -- even though
24 it's pervious pavement -- or pavers, rather --
25 we're still going to put a small structure,

1 we've agreed to do that.

2 And he's asking us to look at the
3 lighting in this area, and we've agreed to do
4 that as well. I might suggest we'll do light
5 tests at night and see what the lighting levels
6 are, to see if we need another light in that
7 fixture; if we do, we'll put it in.

8 **Q. With regard to the recommendations**
9 **that are in that letter, if the board were to**
10 **impose them, you can satisfy them?**

11 A. Yes, sir.

12 **MR. GIUNCO:** I have no other direct
13 questions of Mr. Coco.

14 **CHAIRWOMAN VILLAGIO:** Okay. I'm
15 not --

16 **MR. VINEGRA:** I had one other
17 question, Mr. Coco, one thing I didn't mention
18 in my letter: The trees in the rear area, they
19 were planted in a number of areas when it was
20 constructed, and they've matured. Would the
21 applicant be proposed to either relocating
22 those, or replacement of the trees that are
23 being removed.

24 **THE WITNESS:** I'm not sure about
25 relocating, that's always an iffy subject in how

1 there's only -- there's usually a trailer
2 sitting there, this old junky old trailer that
3 doesn't look like anybody using it. There, you
4 could fit, like, right along the edge of the
5 property, like, right along the curb there.

6 **THE WITNESS:** I was actually
7 thinking right in the corner, there might be
8 spaces in the.

9 **COMMISSIONER SCHERER:** I don't want
10 to say too much in the corner, because you have
11 the tractor-trailer in the --

12 **THE WITNESS:** When you look at the
13 turning radius, outside that area --

14 **COMMISSIONER SCHERER:** I'm talking,
15 like, right in this area, right here, right near
16 the end. Okay? Like, going from South Avenue
17 on back.

18 **THE WITNESS:** Perhaps that's
19 something we can look at with Mr. Vinegra and
20 see if we can maybe stripe more spaces to offset
21 that.

22 **COMMISSIONER SCHERER:** Maybe three
23 or four employee parking spots can be there.

24 **CHAIRWOMAN VILLAGIO:** Especially to
25 offset the two spots that we'd be losing.

1 well that works, but we can always install trees
2 along that boundary to replace them.

3 **MR. VINEGRA:** At least a one-to-one
4 ratio?

5 **THE WITNESS:** Sure.

6 **MR. GIUNCO:** Is it possible,
7 Mr. Coco, that you were -- and Home Depot
8 representatives would be available to meet
9 Mr. Vinegra, to make sure that plan went to
10 satisfaction?

11 **THE WITNESS:** Sure.

12 **COMMISSIONER SCHERER:** On the west
13 side of the property, between Kings and the
14 building, on that driveway, isn't there -- is
15 there room to park cars along there, for, like,
16 employees and stuff? Is that, like --

17 **THE WITNESS:** I believe that's a
18 relatively active area here. There's a customer
19 pickup area here, and some of the loading takes
20 place in that area. There might be a way to
21 squeeze a couple of employee parking space, but
22 we didn't --

23 **COMMISSIONER SCHERER:** It's 25 feet
24 from, I guess, that fence to where that little
25 chute is where people go inside. And usually

1 **COMMISSIONER SCHERER:** So if you
2 put four, you gain two.

3 **THE WITNESS:** And I think that's
4 something, again, we can work out with
5 Mr. Vinegra and the store manager, about where
6 the best place to put those would be.

7 **COMMISSIONER SCHERER:** Other than
8 just being a messy area of the store, that's
9 about all it is. It just collects paper and
10 garbage and --

11 **MR. GIUNCO:** Well, Mr. Coco, in the
12 event that this space will actually be outside
13 of turning radius and be safe, is it then -- and
14 it meets Mr. Vinegra's requirements, would you
15 be able to then put that on the plan which the
16 board member's recommending?

17 **THE WITNESS:** Absolutely.

18 **MR. GIUNCO:** And if we were able to
19 do that, could you just give us an estimate of
20 how many spaces might be available back there?

21 **THE WITNESS:** I think, as a
22 minimum, it might be three or four.

23 **MR. GIUNCO:** So you could actually
24 increase the number of spaces on the site over
25 the 173 that we have now?

1 **THE WITNESS:** Yes.
 2 **MR. GIUNCO:** It would only be a
 3 space or two --
 4 **THE WITNESS:** Right. Even if it
 5 were -- if it was two spaces, we'd be breaking
 6 even based on the new plan.
 7 **MR. GIUNCO:** Would you also
 8 recommend that, in response to the board
 9 member's comment, that those spaces be marked as
 10 employee only, so that there would be less in
 11 and out from that location?
 12 **THE WITNESS:** Yeah, I think they
 13 would be specifically designed for employees.
 14 It can be signed and striped for that.
 15 **MR. GIUNCO:** Would that be
 16 agreeable?
 17 **COMMISSIONER SCHERER:** That'd be
 18 agreeable.
 19 **MR. GIUNCO:** Ms. Chairwoman, I
 20 don't see why -- it sounds like the engineers
 21 believe that can work also, and I think we can
 22 do that.
 23 **CHAIRWOMAN VILLAGIO:** I believe
 24 that's good.
 25 I have a question; I'm not sure if

1 you're the right professional to ask. The rear
 2 of the property against the railroad track looks
 3 like there's a fence on a portion of the
 4 property, a chain-link fence.
 5 **THE WITNESS:** Yes.
 6 **CHAIRWOMAN VILLAGIO:** I would like
 7 to -- in order to -- would it be possible to
 8 put, like, along the whole setback, a vinyl
 9 fence, or a wood fence that would actually
 10 separate the Home Depot from the railroad --
 11 from, you know --
 12 **THE WITNESS:** I believe there's a
 13 fence there now.
 14 **CHAIRWOMAN VILLAGIO:** Chain-link
 15 fence.
 16 **THE WITNESS:** Yes.
 17 **COMMISSIONER SCHERER:** Is that
 18 yours or is that --
 19 **THE WITNESS:** To be honest with
 20 you, I'm not 100 percent sure whether it's Home
 21 Depot's fence or whether it's on the railroad
 22 property.
 23 **COMMISSIONER SCHERER:** This goes
 24 all the way down, but then it comes in --
 25 **THE WITNESS:** Yes.

1 **COMMISSIONER SCHERER:** What about
 2 all this space between the borderline and where
 3 the fence is.
 4 **THE WITNESS:** That's staying.
 5 That's screen area that will remain.
 6 **COMMISSIONER SCHERER:** You're going
 7 to push this fence back, and push all this back
 8 a little more?
 9 **THE WITNESS:** Well, there's no need
 10 to. We feel that that's adequate.
 11 **CHAIRWOMAN VILLAGIO:** But my
 12 thing -- what I would like to see, all right, is
 13 a more aesthetic look in the back of your
 14 property also. Like, you're asking us to okay
 15 the use of an outdoor storage area. So people
 16 traveling down the railroads are going to see an
 17 outdoor storage area. Okay? I would like --
 18 what I would like to see -- it's just my
 19 opinion -- is a nice -- nice fence.
 20 **MR. GIUNCO:** Ms. Chairwoman, are
 21 you speaking of a solid type -- the vinyl, or a
 22 board-on-board type fence?
 23 **CHAIRWOMAN VILLAGIO:** Yes.
 24 **MR. GIUNCO:** Six feet?
 25 **CHAIRWOMAN VILLAGIO:** Yeah, because

1 I think that's what our ordinance has.
 2 **MR. GIUNCO:** I think that's
 3 something that our client would certainly be
 4 pleased to do. Could we again ask that, if we
 5 get to the point -- hopefully the board approves
 6 the application -- if there's an on-site
 7 inspection at that point, perhaps between
 8 Mr. Coco and Victor and his firm, they could
 9 determine exactly where that could be placed.
 10 **CHAIRWOMAN VILLAGIO:** You know, I
 11 would like it to be at the line, so, you know --
 12 at the --
 13 **MR. GIUNCO:** On the property line?
 14 **CHAIRWOMAN VILLAGIO:** Or 6 inches
 15 in, whatever our ordinance indicates. And,
 16 aesthetically, we won't be able to see the
 17 railroad, and the railroad won't be able to see
 18 us. Okay? And you'd be able to -- you know, if
 19 it's okay -- if the application is okay, then
 20 you'll have this nice, you know, outdoor area --
 21 **MR. GIUNCO:** Is there a color
 22 preference, by any chance?
 23 **MR. FRASER:** I think, probably, you
 24 know, the specifics of the fence can be probably
 25 worked out with Mr. Vinegra, but the idea of the

1 fence is probably something the board wants to
2 be involved in.

3 **CHAIRWOMAN VILLAGIO:** Just the idea
4 of the fence.

5 **THE WITNESS:** And just to continue
6 with that idea, are we talking about just the
7 area here, where we have the temporary outdoor
8 storage, or all the way across.

9 **COMMISSIONER HAK:** Can I just make
10 one point, though? One of the things about the
11 chain-link fence, the officers, when they patrol
12 at night, they can see through a chain-link
13 fence; they cannot see through a solid fence.
14 And, I mean, you know, kids just -- kids go on
15 those tracks. No matter how hard they try, they
16 go on there.

17 **CHAIRWOMAN VILLAGIO:** But at this
18 point in time, even the mall on North Avenue,
19 the Garwood Mall, that has a solid fence.

20 **COMMISSIONER HAK:** Yeah, and they
21 tear it down and they go behind it. Go take a
22 look at it.

23 **COMMISSIONER SCHERER:** I'm just
24 wondering, if you have this big white fence
25 there along the railroad tracks, I would expect

1 while -- that the displays were down. What's
2 the chances of them coming back?

3 **THE WITNESS:** I'd have to confer
4 with the store manager on what they're planning
5 on that.

6 **COMMISSIONER VENA:** That took up at
7 least 10 parking spaces, and they were there for
8 years.

9 **THE WITNESS:** Okay. We'll take it
10 up with the store manager.

11 **MR. FRASER:** He's here. Right?

12 **MS. LAVERGNE:** She's here.

13 **COMMISSIONER VENA:** And also during
14 the seasonal -- summer, vegetables, flowers, it
15 used to take up at least 30 parking spaces in
16 the center of the parking lot. I mean, to go in
17 there on a weekend, it was terrible. You
18 couldn't find a parking space. You couldn't get
19 a truck there. You're not going -- you're doing
20 this plan to eliminate that problem?

21 **THE WITNESS:** That's exactly why
22 we're doing it.

23 **COMMISSIONER VENA:** So you're not
24 going to creep back out.

25 **MS. LAVERGNE:** No.

1 these hangers (ph) to come around and have a
2 nice canvass there for them to start painting
3 on.

4 **MR. FRASER:** I would make a
5 suggestion. These are all excellent questions
6 and points on both sides, but that's --

7 **COMMISSIONER SCHERER:** Just
8 something to think about.

9 **MR. FRASER:** That's ultimately an
10 issue for board deliberation, rather than
11 questions of this witness, who's indicated
12 flexibility on behalf of the applicant.

13 **MR. GIUNCO:** Let's put it this way:
14 If the board determines, after your
15 deliberation, that you'd like to have the solid
16 fence, we'll do that; if you want to keep the
17 chain-link, that's there already. So we're
18 agreeable to what the board would determine.

19 **COMMISSIONER VENA:** Mr. Coco?

20 **THE WITNESS:** Yes, sir.

21 **COMMISSIONER VENA:** In the past
22 years, over there on the South Avenue side of
23 the parking lot, that area had shed displays. I
24 was pleased to see, last week I had been
25 there -- because I hadn't been there in a

1 **THE WITNESS:** I would bet that was
2 a different store manager.

3 **MR. FRASER:** The store manager's
4 here, and I'm sure Mr. Giunco will call her at
5 the appropriate time.

6 **COMMISSIONER VENA:** And not to
7 beleaguer the discussion, but as far as that
8 fence goes, that might not be their fence, that
9 might be the railroad's fence, and that's why
10 it's running at an angle like that. So, you
11 know, I mean, the chain-link, I agree with Tim.

12 But the chain-link is fine. If you
13 want a little privacy, or a little nice
14 background, you can throw slats in the
15 chain-link, which is a lot less costly, and you
16 can change it to any color you want, and you can
17 still see through it, but you can see, at
18 least --

19 **THE WITNESS:** There's another
20 alternative similar to what you're suggesting,
21 and that's a fabric, now, that gets tied to the
22 fence.

23 **COMMISSIONER VENA:** And you can see
24 through it --

25 **THE WITNESS:** But it does provide

1 some visual screening. And that's attached to
2 the chain-link fence. It's a little compromise
3 between both.

4 **COMMISSIONER VENA:** Okay.

5 **THE WITNESS:** As John said, what
6 pleases the board.

7 **CHAIRWOMAN VILLAGIO:** We'll discuss
8 later the specifics.

9 **COMMISSIONER SCHERER:** On these
10 permanent outdoor displays in front of the
11 store, now, you don't plan on going -- you're
12 going to leave it where they are now -- where it
13 is now?

14 **THE WITNESS:** I believe so. It's
15 really just going to formalize it in that area.
16 Typically, there's some lines that are drawn on
17 the pavement, so the employees don't bring the
18 stuff much beyond that.

19 **COMMISSIONER SCHERER:** So does it
20 come into the parking lot? Would you stack it
21 up and come out to the apartment?

22 **THE WITNESS:** It's identified as
23 being 12 feet wide. It's basically the size of
24 the vestibule that sticks out. That sets the
25 line for it, so it doesn't go out any further

1 You indicated you're going to
2 provide parking -- I'm sorry, you amended the
3 plans.

4 So what is the open space
5 provision? Because that has obviously now been
6 reduced. So what is that open space provision
7 now?

8 **THE WITNESS:** Right now, there is
9 about 16 percent open space; the requirement is
10 15. And because we're going to put down
11 pervious pavers in this area, that'll be reduced
12 to about 12 percent. So we're seeking a
13 variance for that of about 3 percent.

14 **MR. NIERSTEDT:** But that number has
15 changed from what the original number was.
16 Right?

17 **THE WITNESS:** No, that stays the
18 name.

19 **MR. NIERSTEDT:** We were trying to
20 figure out exactly what you're doing. You're
21 taking the existing curbing and you're putting
22 your material -- your vegetables, temporary
23 sales area -- on the area that today is grass.
24 Correct?

25 **THE WITNESS:** Correct.

1 than that.

2 **CHAIRWOMAN VILLAGIO:** Any other
3 member have any questions for this witness?

4 Seeing none, does any member of the
5 audience have any questions?

6 Please state your name and address.

7 **MR. NIERSTEDT:** Bill Nierstedt, 320
8 Hickory Avenue, Garwood. I'd just like to --
9 three areas:

10 I'd like to echo the chairwoman's
11 request regarding the fence. She was looking
12 for it to go all the way down to the east. I
13 had basically thought that -- you're requesting
14 a variance for the outdoor -- temporary outdoor
15 storage behind the building. I take the train
16 every day so -- you know, I know a lot of people
17 say, hey, we don't screen for the railroad.

18 Well, the image of the railroad is -- seen from
19 the railroad, is an image people take away of
20 Garwood. So I'm going to ask the board to --

21 **MR. FRASER:** Mr. Nierstedt, we're
22 on questions of the witness.

23 **MR. NIERSTEDT:** Questions of the
24 witness. Thank you very much, I stand
25 corrected.

1 **MR. NIERSTEDT:** So you're reducing
2 the impervious area?

3 **THE WITNESS:** Correct.

4 **MR. NIERSTEDT:** So you're reducing
5 the amount of --

6 **THE WITNESS:** Open space.

7 **MR. NIERSTEDT:** So how can the
8 number not change?

9 **THE WITNESS:** It did.

10 **MR. NIERSTEDT:** I just asked if it
11 was different than what was listed --

12 **MR. GIUNCO:** His answer was it went
13 from 16 percent --

14 **THE WITNESS:** I thought you meant
15 the amended plan. Between the submitted plan
16 and this plan -- the plan that was submitted and
17 the amended plan, there's no difference in the
18 reduction of open space. The open space is
19 being reduced from 16 percent to 11.6 percent,
20 and that's because we are putting -- we're
21 basically putting pavers down in that shaded
22 area here.

23 **COMMISSIONER McCARRICK:** You
24 reduced the sales area from the first plan to
25 the revised plan?

1 **THE WITNESS:** Correct, we reduced
2 the amount of sales area. What we did, holding
3 up both plans -- on Exhibit A-1, which is the
4 plan we submitted, we're removing 21 parking
5 spaces.

6 **MR. NIERSTEDT:** And that was the
7 limit of the sales area?

8 **THE WITNESS:** Yeah, the limit of
9 the sales area. So now we also --

10 **MR. NIERSTEDT:** And you added
11 behind it?

12 **THE WITNESS:** Correct. So, now, on
13 the amended plan, in order to keep the parking,
14 we're taking the sales area out of the parking
15 area, and only having it in the new paver area.

16 **MR. NIERSTEDT:** I understand.
17 Thank you.

18 And the last question with Was, I
19 heard April 1st through August 31st. What are
20 you going to do with Christmas trees?

21 **THE WITNESS:** I'll leave that to
22 the store manager.

23 **MR. NIERSTEDT:** Thank you very
24 much.

25 **THE WITNESS:** That's in the garden

1 until August 31st, and then, for about a month
2 and a half, it's not going to be used, and then
3 the Christmas trees are going to go in the same
4 place?

5 **MR. GIUNCO:** Yes.

6 **MR. FRASER:** Got it.

7 **MR. GIUNCO:** The idea was to
8 basically have a space.

9 **CHAIRWOMAN VILLAGIO:** Before I ask
10 a question, is there any other members of the
11 audience that had a question?

12 Seeing none, I have one more
13 question: What will reducing -- what's the
14 impact of reducing it from 7,000 -- reducing the
15 space?

16 **THE WITNESS:** The outdoor sales
17 area?

18 **CHAIRWOMAN VILLAGIO:** Yes.

19 **THE WITNESS:** It --

20 **CHAIRWOMAN VILLAGIO:** Except for
21 the parking spot. You know, what --

22 **THE WITNESS:** Well, I think Home
23 Depot wants to have this outdoor sales area --
24 they want to formalize what's been informally
25 happening. Ideally, we wish we had a bigger

1 center, if I'm not mistaken.

2 **CHAIRWOMAN VILLAGIO:** I thought
3 Christmas trees are permitted --

4 **COMMISSIONER JANNOTTI:** It's
5 already permitted usage, for Christmas trees.

6 **MS. LAVERGNE:** It's 45 days prior,
7 yes.

8 **MR. GIUNCO:** That's permitted
9 under --

10 **MR. NIERSTEDT:** My question is,
11 will they --

12 **COMMISSIONER SCHERER:** Will they go
13 where the outdoor sales goes?

14 **CHAIRWOMAN VILLAGIO:** Where will
15 they be sold, the Christmas trees, the same
16 location?

17 **THE WITNESS:** The same area that's
18 already permitted under your ordinance. And
19 I'll also point out, during the winter, the
20 parking demand is much lower than it is in the
21 spring.

22 **CHAIRWOMAN VILLAGIO:** Except buying
23 Christmas trees.

24 **MR. FRASER:** Are you saying,
25 basically, that this area is going to get used

1 site to put more outdoor sales area and parking,
2 but we don't. But we think, by using this area
3 to manage the outdoor sales and display area for
4 a certain period of the year, we think that's a
5 big improvement to the site, and it doesn't
6 impact the operation of the site, in terms of
7 the parking.

8 **CHAIRWOMAN VILLAGIO:** I'm not sure
9 if I asked the right question. The first plan
10 that we saw that we have in front of us, it's a
11 much larger area.

12 **THE WITNESS:** Correct.

13 **CHAIRWOMAN VILLAGIO:** Okay. You're
14 reducing it by --

15 **THE WITNESS:** Pretty much half.

16 **CHAIRWOMAN VILLAGIO:** Why?

17 **MR. FRASER:** For the parking.

18 **CHAIRWOMAN VILLAGIO:** Is it just
19 for the parking spaces?

20 **THE WITNESS:** We think the balance
21 of providing more parking offsets -- it's more
22 important to have the correct number of parking
23 spaces than just to have the larger display
24 area -- temporary sales and display area. The
25 number of parking spaces is more important,

1 really, to Home Depot, and to the consultants,
 2 than to have the larger outdoor sales display.
 3 **CHAIRWOMAN VILLAGIO:** Okay. I just
 4 wanted that --

5 **THE WITNESS:** Sure.

6 **MR. GIUNCO:** If I may, Mr. Coco, in
 7 fact, the board engineer pointed out that, if
 8 the parking spaces would be reduced, by
 9 reinstating these parking spaces, it will limit
 10 the amount of people driving around the parking
 11 lot looking for a parking space.

12 **THE WITNESS:** Correct.

13 **COMMISSIONER McCARRICK:** Is there
 14 any reason why these sales can't occur in the
 15 garden center area that already exists?

16 **THE WITNESS:** I think it's just a
 17 matter that the business fluctuates, and they
 18 need the additional space, and it's better to
 19 have it outdoors. I mean, the garden space is
 20 an outdoor area, but in this case, it's pretty
 21 limited, compared to a full-size Home Depot. So
 22 we're trying to get the best we can out of the
 23 site.

24 **CHAIRWOMAN VILLAGIO:** Any other
 25 questions from the members of the board?

1 parking field.

2 **MR. GIUNCO:** I'd offer Mr. Rea as a
 3 qualified engineer.

4 **MR. FRASER:** Mr. Rea, your
 5 testimony has been accepted before other
 6 municipal land use boards in the state of New
 7 Jersey?

8 **THE WITNESS:** Yes, sir, and
 9 superior court.

10 **MR. FRASER:** Well, that's something
 11 different.

12 **MR. GIUNCO:** Anybody can be an
 13 expert in superior court.

14 **MR. FRASER:** I'd recommend that
 15 Mr. Rea --

16 **THE WITNESS:** Not to say this isn't
 17 as important.

18 **MR. FRASER:** I'd recommend Mr. Rea
 19 be accepted as an expert in the field which he
 20 has been offered.

21 **CHAIRWOMAN VILLAGIO:** Okay.

22 **BY MR. GIUNCO:**

23 **Q. Mr. Rea, were you called upon to**
 24 **analyze the parking and the impact of adding the**
 25 **additional sales area to the plans?**

1 Seeing none.

2 **MR. GIUNCO:** I'd call -- if I may,
 3 I'll call John Rea, our traffic consultant. I'm
 4 going to offer Mr. Rea as a professional
 5 engineer and expert in traffic engineering.

6 J O H N R E A, having been duly
 7 sworn, testified as follows:

8 **MR. FRASER:** Could you state and
 9 spell your name?

10 **THE WITNESS:** John Rea, R-E-A.
 11 DIRECT EXAMINATION

12 **BY MR. GIUNCO:**

13 **Q. Would you present to the board your**
 14 **credentials?**

15 A. I've been here a long, long time
 16 ago. But like Mr. Coco, I'm a graduate of NCE.
 17 I have a degree in civil engineering. I also
 18 have a master's degree in transportation
 19 engineering from the Polytechnic Institute of
 20 New York, which I think is now part of NYU. And
 21 I've been a licensed professional engineer in
 22 the State of New Jersey for 35 years, and I do
 23 traffic and parking studies, that's my field of
 24 expertise. I'm a licensed professional engineer
 25 with 40 years' experience in the traffic and

1 A. That was my task, yes.

2 **Q. And could you just relate to the**
 3 **board what your study demonstrates, and whether**
 4 **the amended plan will satisfy the parking demand**
 5 **that you've observed? And, additionally, could**
 6 **you comment on the idea of the additional spaces**
 7 **that have been discussed?**

8 A. Yes. Based on parking counts that
 9 we conducted at this site in the spring of 2015,
 10 in March and in May -- and May is the peak month
 11 for Home Depot -- we determined that we needed
 12 those extra parking spaces. Essentially, I was
 13 the bad guy that had to go to my client and tell
 14 them, sorry Tariz, but we can't get that entire
 15 area for a sales area, because we need some of
 16 that parking.

17 Mr. Coco and I discussed it, I know
 18 Fred also discussed it with Mr. Vinegra, and
 19 what we decided to do was essentially cut the
 20 outdoor sales area approximately in half, and in
 21 that fashion, be able to salvage 19 of the 21
 22 parking spaces that were in the area up against
 23 the railroad tracks that were originally going
 24 to be used for a sales area. But we put back 19
 25 of those parking spaces.

1 I believe, with the 270 -- 171
 2 parking spaces that we will have following the
 3 adoption of the amended plan, that we will have
 4 adequate parking, even for those peak Saturdays
 5 in May, based on the parking counts that we did.
 6 On that one peak Saturday in May, we recorded
 7 from about 10 o'clock in the morning until 6
 8 o'clock in the evening. There was always a
 9 minimum of 140 to 150 cars in the parking lot.
 10 I know you folks have experienced that. I was a
 11 little uncomfortable with the 152 parking space;
 12 I'm a lot more comfortable with the 171. I
 13 think it'll work for you folks, and it'll work
 14 for everybody.

15 **Q. Did you have a chance to look at**
 16 **the plan, based on the discussion between the**
 17 **board member and Mr. Coco on the additional**
 18 **spaces?**

19 A. Yeah, I would certainly have no
 20 issue with striping some employee spaces in the
 21 back, as long as Mr. Coco and I can lay the
 22 turning radius templates for the delivery trucks
 23 back there, make sure they don't encroach on
 24 those parking spaces. So we would definitely
 25 take a look at that, prepare an ultimate plan,

1 **THE WITNESS:** Thank you.
 2 **MR. GIUNCO:** May I call Justin
 3 Auciello, our professional planner, to discuss
 4 the variances?

5 JUSTIN AUCIELLO,
 6 having been duly sworn, testified as follows:

7 **MR. FRASER:** Can you state and
 8 spell your name?

9 **THE WITNESS:** Justin Auciello,
 10 A-U-C-I-E-L-L-O. I'm with Cofone Consulting
 11 Group, 125 Half Mile Road, Suite 200, Red Bank.
 12 DIRECT EXAMINATION

13 **BY MR. GIUNCO:**

14 **Q. Could you advise the board of your**
 15 **experience, education, and training?**

16 A. Sure. I've been in planning
 17 practice for about 10 years now. I have a
 18 master's in city and regional planning from
 19 Rutgers University -- which I can say has not
 20 changed names since 1766.

21 **MR. FRASER:** Which school?

22 **THE WITNESS:** Bloustein School.

23 **MR. FRASER:** I don't think that
 24 school's been there since --

25 **THE WITNESS:** Early '70s, I concede

1 see how many employee parking spaces we can put
 2 back there. I think Fred's right, we can get a
 3 minimum of three or four parking spaces, and
 4 that'll up the count to approximately 175.

5 **MR. GIUNCO:** I have no other --

6 **BY MR. GIUNCO:**

7 **Q. Mr. Rea, are you otherwise**
 8 **satisfied that the circulation on site is**
 9 **effective?**

10 A. Yeah, we're really not changing
 11 anything else. We're just trying to get
 12 everything organized a little better from what
 13 currently exists today, get that area -- the
 14 outdoor sales are going to take place in back of
 15 the property, in an area that it doesn't impact
 16 circulation, doesn't impact parking. I think
 17 it's a very reasonable plan and a reasonable
 18 approach to solve all the issues that we have.

19 **CHAIRWOMAN VILLAGIO:** Okay. Does
 20 anybody -- any member of the board have any
 21 questions for the traffic engineer?

22 Does any member of the audience
 23 have any questions for the engineer?

24 Seeing none, thank you for your
 25 testimony.

1 that.

2 A. My practice in planning is
 3 really -- runs the whole gamut, from master
 4 planning to redevelopment. I provided testimony
 5 on probably well over 100 applications in 14
 6 counties in the state of New Jersey, for
 7 planning and zoning boards. I have not appeared
 8 in court yet, but my practice is, you know,
 9 pretty well varied; my license is up to date as
 10 well.

11 **MR. GIUNCO:** I'd offer Mr. Auciello
 12 as an expert in the field of professional
 13 planning.

14 **MR. FRASER:** I recommend that the
 15 witness be so accepted, Madame Chairperson.

16 **CHAIRWOMAN VILLAGIO:** Okay.

17 **THE WITNESS:** Thank you.

18 **BY MR. GIUNCO:**

19 **Q. Justin, we asked you to analyze the**
 20 **request for variances before the board. Did you**
 21 **have an opportunity to do that study?**

22 A. Yes, I did.

23 **Q. Could you begin with the requested**
 24 **use variance? Could you first describe what the**
 25 **use variance is for? Because it's somewhat**

1 **limited. And then, describe the justifications**
2 **that the board may rely on in the event they're**
3 **inclined to grant the application.**

4 A. Sure. Well, the use variance, as
5 you know, it is required for the duration that's
6 proposed here in this application. The use
7 itself, the outdoor storage function, that's
8 permitted in the C/C Zone, but we are requesting
9 the variance for the duration for outdoor
10 storage. Since this is a use variance, there
11 are certain proofs, as you're well aware, that
12 must go on the record to satisfy that request.

13 The first one is particular
14 suitability. Clearly, this site has been used
15 for a Home Depot; it's been occupied by Home
16 Depot for some time. It is located on a
17 commercial thoroughfare. The type of use which
18 is proposed -- which, again, the use itself is
19 permitted, but the duration is not permitted --
20 is certainly well suited for this property.

21 When you look at the benefits of
22 the application, which is the positive criteria,
23 from the standpoint -- you heard some testimony
24 from Mr. Coco and Mr. Rea relative to the fact
25 that what we're doing in this application is to

1 **Q. If I may, Justin, for purposes of**
2 **our use variance request, which is for the term**
3 **within which we're going to use the outdoor**
4 **sales and storage, you basically have identified**
5 **special reasons, such as the organization of the**
6 **site, safety on the site, and its efficient**
7 **operation --**

8 A. Correct.

9 **Q. -- along with the efficient use of**
10 **this land for purposes of delivering these**
11 **products to the community.**

12 A. Correct.

13 So as it relates to the bulk
14 variance relief, we require a variance for open
15 space. There is no change in the open space
16 calculation from what was proposed, you know,
17 prior to tonight, and what's proposed tonight.

18 We also do require a variance for
19 the parking relief on the site. You heard
20 testimony that -- as compared to what's
21 submitted and what was presented tonight,
22 parking relief is quite -- quite minimal.
23 There's a deviation of two spaces. And we
24 believe that -- you heard testimony from Mr. Rea
25 in which stated that the site is adequately

1 provide a more -- more orderly, you know,
2 condition for the storage of the materials
3 currently. As you're aware, there are some
4 areas that are not well defined. What we're
5 trying to do herein tonight is to formalize
6 these areas, which creates a safer situation,
7 more efficient use of the land.

8 And, certainly, we're going to
9 advance multiple purposes of the MLUL: We're
10 serving the general welfare by providing these
11 goods that are in demand in this community.
12 Also, there's sufficient space on this property
13 to provide for the outdoor storage.

14 You've heard the two plans, which
15 is as proposed and the alternative plan. And I
16 think, from a planning standpoint, the
17 alternative plan, even though we are looking at
18 a reduction of the storage space, we do require,
19 you know, parking, and we think that we can make
20 it work.

21 So, overall, this is about creating
22 a more efficient and safe land use, especially
23 as it relates to circulation. So, really,
24 that's the whole intention of trying to
25 formalize these areas.

1 parked per the alternative plan.

2 So, really, the benefit, you know,
3 would outweigh the detriment, you know, with
4 respect to the services and the goods that would
5 be provided, you know, as opposed to the
6 alternative of those goods either not being
7 provided, or being provided in such a way that's
8 not orderly and efficient.

9 **Q. Now, with regard to the variance**
10 **for parking, you're speaking of the number of**
11 **parking spaces required under this site plan?**

12 A. Correct.

13 **Q. And your testimony was directed at**
14 **the -- in the event that the additional spaces**
15 **that have been identified by the board member**
16 **are not able to be achieved. Is that correct?**

17 A. That's correct.

18 **Q. If the board -- if the designers**
19 **and the board's engineer are able to come up**
20 **with a plan that's suitable for design purposes,**
21 **and they provide those spaces, would that**
22 **variance be required?**

23 A. No, it would not.

24 **Q. So you're proposing that, in the**
25 **event it is required, that there is an adequate**

1 justification for it?
 2 A. Yes, absolutely.
 3 Q. Okay. And so, with -- you
 4 addressed that with regard to the number of
 5 parking spaces, and the impervious surface, and
 6 the use variance. So are there any other
 7 variance reliefs requested?
 8 A. Not that I believe. Did we address
 9 the issue for fencing of outdoor storage, or is
 10 that an issue that's going to be determined by
 11 the professionals?
 12 Q. Which --
 13 A. The outdoor storage fencing.
 14 Q. Well, that's part of the requested
 15 relief for the extension of the term.
 16 A. Correct.
 17 Q. Is that correct?
 18 A. Yes, that's correct.
 19 Q. Now, you've presented your
 20 affirmative proofs; did you also study the
 21 zoning ordinance and determine whether the
 22 granting of the use variance or the bulk
 23 variances requested would have any adverse
 24 impact on the zoning plan or scheme?
 25 A. Yes, I have.

1 provide safe access for customers, and, of
 2 course, separate adequately pedestrian and
 3 customer traffic from the commercial traffic and
 4 truck delivery?
 5 A. Yes, absolutely.
 6 MR. GIUNCO: I have no other direct
 7 questions of Mr. Auciello.
 8 CHAIRWOMAN VILLAGIO: Does any
 9 member of the board have any questions for this
 10 witness?
 11 Seeing none, does any member of the
 12 audience have any questions for this witness?
 13 Seeing none, thank you for your
 14 testimony.
 15 THE WITNESS: Thank you.
 16 MR. GIUNCO: Mr. Chairman, that's
 17 basically our application.
 18 MR. FRASER: Chuck, did you want to
 19 call the store manager for the issue that was
 20 kind of being touched on?
 21 MR. GIUNCO: Sure. We didn't
 22 actually plan on that. Tariz?
 23 T A R I Z L A V E R G N E, having
 24 been duly sworn, testified as follows:
 25 MR. FRASER: And your name, please?

1 Q. And what was your conclusion?
 2 A. Certainly not. This -- again, the
 3 outdoor storage is permitted. We're here
 4 tonight because the duration that we proposed is
 5 not permitted. So we do meet the intent of the
 6 zone plan and zoning ordinance, because we are
 7 proposing -- which is something that's already
 8 existing -- something that the zone plan does
 9 contemplate, which is commerce.
 10 Q. Have you also had an opportunity to
 11 analyze it from the aspect of whether it has any
 12 adverse impact on the health and welfare of the
 13 community in the event the board should grant
 14 these --
 15 A. Yes -- yes, I have.
 16 Q. And the result of that analysis?
 17 A. This application is a substantial
 18 improvement to the site -- to the orderly
 19 function of the site; therefore, there will not
 20 be a substantial detriment to the public good.
 21 Q. Now, in your studies as a planner,
 22 you've also analyzed the overall site plan. If
 23 the board grants this approval in your analysis
 24 as a planner, would you find the site plan would
 25 be able to operate efficiently and effectively,

1 THE WITNESS: Tariz Lavergne,
 2 L-A-V-E-R-G-N-E.
 3 DIRECT EXAMINATION
 4 BY MR. GIUNCO:
 5 Q. Now, are you -- your position at
 6 the Home Depot is the store manager?
 7 A. Yes, sir.
 8 Q. And how long have you been in that
 9 position?
 10 A. In this store, about 18 months; in
 11 position, two and a half years.
 12 MR. GIUNCO: Now, there was a board
 13 question; here's Tariz.
 14 CHAIRWOMAN VILLAGIO: What
 15 impact -- I forgot.
 16 COMMISSIONER VENA: My question was
 17 the center usage of the parking lot, as was --
 18 THE WITNESS: This would replace
 19 that.
 20 CHAIRWOMAN VILLAGIO: This is going
 21 to replace that?
 22 THE WITNESS: Absolutely. And if
 23 anybody has --
 24 COMMISSIONER VENA: Sheds?
 25 THE WITNESS: Sheds, we would like,

1 but if it's up to the board -- if you do not
2 want any sheds, we were not planning on putting
3 them in parking spots to begin with. We did
4 want, if allowed, to put a shed display on that
5 grass area, if allowed.

6 **COMMISSIONER VENA:** If the
7 application passes, I'm sure you can put
8 whatever you want out there, as long as it
9 doesn't encroach into the parking lot.

10 **THE WITNESS:** Nothing would.

11 **MR. FRASER:** So if there were going
12 to be sheds, so that we're clear, they would be
13 in the area that you're applying for now, rather
14 than in some other place that would cause the
15 loss of a parking space. Correct?

16 **THE WITNESS:** Absolutely.

17 **COMMISSIONER McCARRICK:** The issue
18 with sheds is that they would be there --

19 **COMMISSIONER SCHERER:** All the
20 time.

21 **COMMISSIONER McCARRICK:** There you
22 go. Twelve months out of the year.

23 **THE WITNESS:** That could be
24 removed, because we have a shed on site right
25 now that's in the back of our building that has

1 question, if we -- if we looked at extending it
2 past August 31st, what would that do to your --
3 what would you be able to put in that space from
4 August 31st until October 31st?

5 **THE WITNESS:** It would be fall
6 harvest, which would include pumpkins, mums --
7 mums are taking up the majority of -- ending of
8 August, September, and October, would be mum
9 season. So it would be strictly live goods, and
10 with the usage of pumpkins as well.

11 **CHAIRWOMAN VILLAGIO:** And if you
12 don't have them at Home Depot during that time,
13 then people would go elsewhere for those same
14 goods?

15 **THE WITNESS:** Absolutely.

16 **MR. GIUNCO:** Let me follow up on
17 that.

18 So you find many of your customers
19 buy more than one product when they come to the
20 Home Depot?

21 **THE WITNESS:** Absolutely.

22 **MR. GIUNCO:** And these types of
23 products are ones that customers generally add
24 to their orders?

25 **THE WITNESS:** Yep. So live goods,

1 been removed.

2 **CHAIRWOMAN VILLAGIO:** I have a
3 question: Why only until August 31st that
4 you're asking, from April 1st to August 31st,
5 and not until September 30th, or October 31st,
6 when you have the fall flowers? Just asking the
7 question, since --

8 **THE WITNESS:** If it would be
9 agreeable, we would want to extend it as much as
10 we could. We're trying to work within
11 limitations.

12 **MR. FRASER:** So was that a tactical
13 decision?

14 **MR. GIUNCO:** Yes.

15 Let me ask it this way: Tariz, if
16 the board would consider an amended application
17 to include the additional time, you'd be able to
18 utilize that to deliver products and sales to
19 the customers?

20 **THE WITNESS:** Absolutely.

21 **COMMISSIONER SCHERER:** But if you
22 can wait until November 1st, you can start
23 putting Christmas stuff out there.

24 **MR. FRASER:** Opportunistic.

25 **CHAIRWOMAN VILLAGIO:** My next

1 because of -- since the past few months, when
2 the parking lot has been no longer been able to
3 be used, we have lost substantial sales and
4 customers to other stores, other areas, because
5 of the live goods selection that we no longer
6 have, because of space restrictions.

7 **CHAIRWOMAN VILLAGIO:** Okay. And I
8 do remember, before Home Depot, the --

9 **MR. GIUNCO:** Villager --

10 **CHAIRWOMAN VILLAGIO:** Because I was
11 on this board when we turned those huts into a
12 village. All right? So I just wanted to point
13 that out. Because it used to be these big huts
14 there.

15 **THE WITNESS:** I don't recall.

16 **COMMISSIONER SCHERER:** Quonset
17 huts.

18 **CHAIRWOMAN VILLAGIO:** That was
19 probably before you were born.

20 That's all the questions I have.

21 Does anybody else have any more questions for
22 this -- the manager?

23 **COMMISSIONER JANNOTTI:** I just had
24 a question following up.

25 So your business has been impacted

1 by the fact that you have not been able to
2 utilize the space to sell outdoor garden flowers
3 and trees this year, compared to previous years
4 when you had done this?

5 **THE WITNESS:** In the past six
6 months, I've lost \$114,600 in just live goods
7 sales. That's down 9 percent versus last year.
8 Strictly live goods.

9 **COMMISSIONER JANNOTTI:** So I guess
10 one of the reasons why you're coming before this
11 planning board seeking this permission to do
12 this use is because of that loss of business?

13 **THE WITNESS:** Absolutely one of the
14 reasons, yes, sir.

15 **CHAIRWOMAN VILLAGIO:** Does any
16 other member of the board have any other
17 questions for this witness?

18 **MR. VINEGRA:** I have one question.
19 If you had your choice, what time frames would
20 you like to do outdoor sales?

21 **THE WITNESS:** All year round. I'm
22 under oath.

23 **COMMISSIONER SCHERER:** How about
24 April 1st to December 31st?

25 **COMMISSIONER VENA:** The first plan

1 **MR. VINEGRA:** And just for your own
2 edification, Lenny DiStefano, the zoning code
3 enforcement officer -- and I spoke about this --
4 there were a number of complaints -- and some
5 came from the fire department, and some came
6 from other members -- about the amount of
7 outdoor sales that was blocking the fire lane.
8 That's why they were substantially impaired,
9 they were using up the fire lane.

10 They've since complied, removed the
11 sheds, but since complying, they've lost 100,000
12 in sales. And the sales are things I think that
13 everybody here probably bought at one point in
14 time, and now it's not there. So now you're
15 going to the store --

16 **COMMISSIONER VENA:** Excuse me, I
17 remember, two years ago, I ran out of propane.
18 I had a crowd of people in the backyard. I took
19 my two canisters over to Home Depot. I couldn't
20 get in the back to get the propane, so I left, I
21 went elsewhere. That's how jumbled the parking
22 lot was. There were so many people there, there
23 were so many displays. I just turned around and
24 went elsewhere to go get it.

25 **THE WITNESS:** Before my time.

1 that was submitted, taking up 21 parking spaces,
2 that's why I believe they had a time restraint
3 on it, from April 1st to the end of August. Now
4 that they're only taking two spaces -- and
5 hopefully putting some in the back to equal out
6 what they're taking -- does it really matter how
7 long the goods --

8 **MR. VINEGRA:** No. I personally --
9 I felt they've satisfied our request that --
10 they were on the very thin edge of having a
11 capacity lot during peak periods, holidays and
12 Saturday afternoons. They have since realized
13 that in house, they addressed that. And if it's
14 going to be pervious stone, it's going to be
15 there; if it's going to be lit for outdoor
16 sales, if they're going to run a register or
17 pad, what's the difference?

18 **COMMISSIONER VENA:** Absolutely, I
19 agree 100 percent.

20 **MR. VINEGRA:** Thanksgiving,
21 Halloween, Christmas, holiday season, you know,
22 year round, what's the issue?

23 **COMMISSIONER VENA:** It was the
24 impact on the parking that gave them the
25 constraints to sell --

1 **COMMISSIONER VENA:** Yes. I live
2 two and a half blocks from there. So that's the
3 convenience of having a Home Depot and being so
4 close. So when you couldn't get in the parking
5 lot, that was a problem. But, yeah, I like this
6 revised plan.

7 **COMMISSIONER JANNOTTI:** I do two.
8 **CHAIRWOMAN VILLAGIO:** Does any
9 member of the audience have any questions? I'm
10 not sure if I asked.

11 No members of the board? I'm
12 sorry --

13 **MR. TRUSDELL:** I just wanted to
14 make a --

15 **CHAIRWOMAN VILLAGIO:** State your
16 name.

17 **MR. TRUSDELL:** Brian Trusdell,
18 Westfield, New Jersey, 240 North Second Avenue.
19 Victor made a remark that there was
20 a complaint from the fire chief that the
21 displays were blocking the fire lane.

22 **MR. VINEGRA:** Someone from the fire
23 department made a complaint with the zoning code
24 enforcement officer, who's since contacted me --
25 and a while back, he said -- we had a

1 discussion, and they -- we've asked Home Depot
2 to remove some of the sheds and some of the
3 outdoor sales from the fire lane area, and
4 they've since complied.

5 **MR. TRUSDELL:** And that was six
6 months ago --

7 **MR. VINEGRA:** About -- I would say
8 yeah.

9 But in the meantime, we also
10 instructed Home Depot, if they'd like to expand
11 their sales, they can make an application to the
12 planning board. So we also not only said, hey,
13 here's your violation, we also said, hey, to do
14 this properly, you may want to consider coming
15 before the board.

16 We walked back there and said, hey,
17 maybe behind those spaces would not a bad
18 location for outdoor sales, to open this up. So
19 they actually took some recommendations from the
20 zoning enforcement and myself, and that's why
21 they're here today.

22 **MR. TRUSDELL:** I just wanted to
23 clarify: The reason for the lost sales was the
24 complaint, which removed the blockages, and,
25 therefore, that's why --

1 **THE WITNESS:** Thank you.

2 **MR. FRASER:** Mr. Giunco, you're --

3 **MR. GIUNCO:** We tried to do it --

4 **MR. NIERSTEDT:** You asked if we had
5 questions. Can we make comments?

6 **CHAIRWOMAN VILLAGIO:** Oh, yes.
7 Does any --

8 **MR. NIERSTEDT:** Bill Nierstedt
9 again, 320 --

10 **MR. FRASER:** Mr. Nierstedt
11 (indicating).

12 **MR. NIERSTEDT:** For a comment?

13 **MR. FRASER:** We always do. It's
14 testimony, Bill.

15 **WILLIAM NIERSTEDT,**
16 having been duly sworn, testified as follows:

17 **MR. NIERSTEDT:** I want to thank
18 Home Depot for coming in and making the
19 application, because it did create an unsafe
20 situation numerous times out in that parking
21 lot. So I thank you very much for doing this.

22 Second, I just want to reiterate my
23 comment about the fence. White vinyl, you know,
24 I have the strongest taste for, but I understand
25 the comment about police seeing through. I find

1 **MR. VINEGRA:** Yes, we --

2 **CHAIRWOMAN VILLAGIO:** No. I think
3 the clarification of that may be that, where
4 they had the -- the outdoor stuff wasn't
5 allowed.

6 **MR. TRUSDELL:** Right, and so
7 they -- there was a complaint --

8 **CHAIRWOMAN VILLAGIO:** And it wasn't
9 only because the fire department complained. It
10 just wasn't --

11 **MR. TRUSDELL:** But somebody
12 complained, and that's what sparked -- I just
13 wanted to clarify: There was an instigating
14 incident.

15 **MR. VINEGRA:** Lack of --

16 **MR. FRASER:** Except for the fact
17 that it was not previously approved.

18 **COMMISSIONER JANNOTTI:** They
19 weren't permitted to do what they were doing, no
20 matter what.

21 **CHAIRWOMAN VILLAGIO:** All right.
22 Does any other member of the audience have any
23 further questions?

24 Any members of the board?

25 Seeing none, thank you very much.

1 it very unfortunate that we've allowed the rear
2 of properties -- not just Home Depot, but you go
3 up and down the Raritan Valley Line, the rear of
4 properties, they just -- excuse my language --
5 look like hell.

6 And if Home Depot is going to
7 request a variance to allow the outdoor storage,
8 and request the reduction of the open space, I
9 would just ask that the board consider at least
10 installing a fence behind the area where they're
11 going to have the outdoor storage; not
12 necessarily down by the planting, by the outdoor
13 display area, but where they're going to have
14 that temporary storage.

15 And you mentioned the slats in the
16 chain-link fence. Hopefully the fence will be
17 raised to 6 feet, because that's how high they
18 want to put the storage.

19 And somebody mentioned the black
20 material. You know, that's fine, I guess, you
21 know, if you don't want to go with a wood fence.
22 The police can still see through that. I think
23 Westfield Lumber sells it, if you can't find it.

24 **MR. GIUNCO:** Wait a minute, I have
25 to object to that.

1 **MR. NIERSTEDT:** That was a joke.
 2 I'm sure you have it in house. You
 3 can install the fencing, you can probably get a
 4 good deal at Home Depot. So I would encourage
 5 the board to consider installing the fencing
 6 behind that temporary storage area.

7 That's it. Thank you.

8 **CHAIRWOMAN VILLAGIO:** Thank you,
 9 Mr. Nierstedt. Does any other member of the
 10 audience have any further comment?

11 **MR. GIUNCO:** Mr. Chairman, members
 12 of the board, our application is presented for
 13 all the reasons that you've heard, but primarily
 14 what it'll achieve on behalf of my client is a
 15 more orderly operation on site, and that, in
 16 turn, will translate to benefits for the
 17 community, in the sense of more products
 18 available, easier access for customers, and even
 19 more safe than it is operating today.

20 I think we've provided testimony of
 21 the on-site conditions, we analyzed the parking,
 22 and that was delivered to you.

23 And then, we presented professional
 24 planning testimony in support of the variances.
 25 The use variance, by special reasons which were

1 it's a positive that you vote for it, and I do
 2 urge you to vote for it, because I think it's a
 3 good application; it'll help not only the Home
 4 Depot, but the entire community.

5 **CHAIRWOMAN VILLAGIO:** Thank you
 6 very much.

7 Comments? How about the fence?

8 **COMMISSIONER SCHERER:** The fence?

9 **MR. VINEGRA:** The one thing on the
 10 fence is, what you said earlier, there was a
 11 solid fence built behind my office in Cranford
 12 along the rail line, by the new Woodmont
 13 property, and that thing was tagged three times
 14 already. It's something that's being done along
 15 the railroad tracks. And they had -- and the
 16 facility has only been open for six months, and
 17 they've been painting the fence, the vinyl
 18 fence, because people -- just something I never
 19 thought --

20 **COMMISSIONER TARANTINO:** And,
 21 Victor, that is the off-white solid vinyl fence?

22 **THE WITNESS:** Yeah, you know, vinyl
 23 doesn't paint that well, I guess, but somehow
 24 it's sticking.

25 **COMMISSIONER JANNOTTI:** And it's

1 outlined, such as -- and, similarly, for the
 2 bulk variances, an analysis on the
 3 benefit/detriment, and then the analysis of the
 4 negative criteria from the planner seems to
 5 indicate what I think is the general consensus
 6 of all of our consultants, and that is that this
 7 plan is more organized; will enhance the zoning
 8 ordinance, even with the grant of the variance,
 9 because it will achieve the purpose of
 10 efficiency, safety, and good operation.

11 And of all things, of course, Home
 12 Depot's business is to sell products, so they
 13 want to sell as many as they can, but, likewise,
 14 there's a demand for those products in the
 15 community, and I must say that, over the years,
 16 as we go around to the Home Depots that are in
 17 place around the state and modify them, almost
 18 every one of them is similar to this, where
 19 there's a demand in that particular marketplace
 20 that may not be adequately met. Home Depot
 21 wants to meet it for their business purposes,
 22 but it then meets a demand in the community. So
 23 it serves a dual purpose.

24 I'm going to ask you to, first of
 25 all, make sure we have five affirmative votes,

1 hard to get that off.

2 **MR. VINEGRA:** Maybe a vinyl-clad
 3 chain-link that's either black or green in
 4 color, kind of hides itself, but also does -- it
 5 provides proper security too.

6 **CHAIRWOMAN VILLAGIO:** Would you
 7 work with Home Depot for --

8 **MR. VINEGRA:** Yeah.

9 **CHAIRWOMAN VILLAGIO:** -- a fence
 10 other than vinyl?

11 **THE WITNESS:** Yes.

12 **COMMISSIONER SCHERER:** Anything
 13 graffiti proof.

14 **COMMISSIONER JANNOTTI:** If
 15 possible.

16 **CHAIRWOMAN VILLAGIO:** But something
 17 that's aesthetically, you know...

18 **MR. VINEGRA:** A few of the things,
 19 I guess, they agreed to is -- we are going to
 20 replace the landscaping that's going to be
 21 destroyed during construction.

22 We'll have to work on the type of
 23 pervious stone they'll use over there --

24 **COMMISSIONER McCARRICK:** When you
 25 say "stone," you mean pavers?

1 **MR. VINEGRA:** Either a paver
 2 block -- we'll work through it. They're also
 3 going to have some type of mitigation for the
 4 volume of pervious on the paver block.
 5 I looked at the trailer, we did a
 6 walkthrough, the trailers in the rear portion.
 7 **MR. FRASER:** Lighting.
 8 **MR. VINEGRA:** And the lighting,
 9 because the lighting for the sales area, for the
 10 security for security for the people that do
 11 work that area -- so you want might want to do
 12 some low-level 8-foot poles around the sales
 13 area and display area.
 14 **COMMISSIONER JANNOTTI:** And you
 15 make those recommendations?
 16 **MR. VINEGRA:** I did, in my letter.
 17 **CHAIRWOMAN VILLAGIO:** The parking?
 18 **MR. VINEGRA:** Yeah, the revised
 19 employee parking.
 20 And, I guess, just for this board
 21 to decide what sales period. Do we want to go
 22 year round there? That's going to be something.
 23 There's other items I just -- I
 24 broached to be placed in the resolution, and
 25 anybody makes a motion, those items, but I will

1 give them April 1st through the end of the year,
 2 but not year round?
 3 **COMMISSIONER SCHERER:** Yeah.
 4 **CHAIRWOMAN VILLAGIO:** Because
 5 nothing is really sold and -- you know, like
 6 what Mr. Scherer says, I think, was an excellent
 7 idea. And then, I think even Home Depot
 8 wouldn't -- you know, it would give you a chance
 9 to get rid of everything, to make it nice for
 10 April.
 11 **COMMISSIONER SCHERER:** And things
 12 may change with the marketing, and maybe you
 13 don't want to put that stuff out there no more,
 14 or something's coming new for the new year or
 15 whatever. I think that would be a good
 16 marketing strategy, keep everything cleaned up.
 17 **MS. LAVERGNE:** I think the best
 18 point would be the snow removal, absolutely, in
 19 January, February, and March. Absolutely.
 20 **MR. GIUNCO:** We certainly
 21 appreciate that.
 22 **CHAIRWOMAN VILLAGIO:** All right.
 23 What does everybody else think, from April 1st
 24 to December 31st?
 25 **COMMISSIONER TARANTINO:** I would

1 acquiesce the year-round sales to the board.
 2 **COMMISSIONER SCHERER:** Before we
 3 discuss, how about, like, from April 1st to
 4 December 31st? Because there's really -- what
 5 sales are there going to be from January until
 6 April? And, this way, it gets that area cleaned
 7 out, it gets a place to throw -- you know, pile
 8 all the snow, and then it -- you get to clean
 9 that area out, and it revises it every year, to
 10 make it a little different.
 11 **CHAIRWOMAN VILLAGIO:** Good idea.
 12 **MR. FRASER:** Is it December 31st,
 13 they have to clean the Christmas trees?
 14 **COMMISSIONER SCHERER:** Yeah,
 15 because if they're going to go April 1st to
 16 August 31st, come November 1st, they set up for
 17 the Christmas trees, and, you know, then for
 18 Thanksgiving and stuff, grave blankets --
 19 **CHAIRWOMAN VILLAGIO:** Do they have
 20 to be out -- the Christmas trees have to be out
 21 by December 31st?
 22 **COMMISSIONER SCHERER:** Yeah, they
 23 have a few days to pack everything up.
 24 **MR. FRASER:** So, in other words, go
 25 beyond the relief that the applicant requested,

1 agree with that.
 2 **COMMISSIONER JANNOTTI:** I would
 3 too.
 4 **CHAIRWOMAN VILLAGIO:** Pat, April
 5 1st -- I'm sorry, you can't --
 6 **COMMISSIONER JANNOTTI:** I would be
 7 in favor of that.
 8 **COMMISSIONER HAK:** I think that's a
 9 good idea.
 10 **CHAIRWOMAN VILLAGIO:** Okay. So
 11 we'll make a -- we have the lights, we have the
 12 parking, we have the fence that Victor's going
 13 to work with Home Depot, we have the --
 14 **MR. FRASER:** We don't have a
 15 lighting plan yet, so I guess, Victor, it'll be
 16 a lighting plan subject to engineering approval.
 17 **MR. VINEGRA:** They testified
 18 they're going to do speed limiting with metering
 19 equipment, and anything below -- with a 2-foot
 20 or 5-foot candle rating, you'd have to augment
 21 with additional lights.
 22 **MR. FRASER:** Subject to your
 23 approval.
 24 **MR. VINEGRA:** Yes.
 25 **COMMISSIONER JANNOTTI:** I guess I

1 would make a proposal that we accept the revised
 2 plan as presented, but that we extend the time
 3 from April 1st to December 31st, with the
 4 provision that they work with the engineer on
 5 the siting -- on the lighting recommendations,
 6 and come to an agreement for what the proper
 7 lighting would be; that there would be
 8 additional trees replaced from the ones that
 9 they are taking down that would go along the
 10 fence; that there be a maximum of, like, four
 11 additional employee parking lot -- parking
 12 spaces in the rear; and that the fence along the
 13 back -- and I'm assuming it's not a New Jersey
 14 Transit fence, I don't know who owns the
 15 fence -- but if they have the ability to change
 16 that fence out to something that they could work
 17 with Victor Vinegra on for an acceptable fence
 18 that will be --
 19 **CHAIRWOMAN VILLAGIO:** Aesthetic.
 20 **COMMISSIONER JANNOTTI:** Right,
 21 aesthetic, and not be painted on by vandals --
 22 **COMMISSIONER SCHERER:** Would that
 23 be the whole length of the property, the whole
 24 width?
 25 **COMMISSIONER JANNOTTI:** I would

1 that motion.
 2 **CHAIRWOMAN VILLAGIO:** Was there any
 3 other waivers they were asking for?
 4 **MR. GIUNCO:** We had the variances,
 5 and I don't believe there were any waivers
 6 requested.
 7 **CHAIRWOMAN VILLAGIO:** Okay.
 8 **COMMISSIONER JANNOTTI:** So we're
 9 proposing --
 10 **MR. FRASER:** That's your motion?
 11 **CHAIRWOMAN VILLAGIO:** Is that your
 12 motion?
 13 **COMMISSIONER JANNOTTI:** Motion.
 14 **CHAIRWOMAN VILLAGIO:** Okay. We
 15 have a motion.
 16 **COMMISSIONER SCHERER:** Second.
 17 **CHAIRWOMAN VILLAGIO:** We have a
 18 second by Mr. Scherer. Roll call, please.
 19 **MS. LEWIS:** Kathy Villagio?
 20 **CHAIRWOMAN VILLAGIO:** Yes.
 21 **MS. LEWIS:** Robert Scherer?
 22 **COMMISSIONER SCHERER:** Yes.
 23 **MS. LEWIS:** Paul Tarantino?
 24 **COMMISSIONER TARANTINO:** Yes.
 25 **MS. LEWIS:** Gene Jannotti?

1 recommend the whole --
 2 **MR. VINEGRA:** I would walk the
 3 site, and if behind the building is adequate, we
 4 can make that determination --
 5 **COMMISSIONER TARANTINO:** We'd like
 6 to see the fence increased to 6 feet.
 7 **COMMISSIONER JANNOTTI:** If
 8 possible. Again, I would go with Victor's
 9 recommendation as to what's legal and --
 10 **MR. FRASER:** If it's not their
 11 fence, and there's a fence on the railroad
 12 property, that doesn't bar them from putting a
 13 6-foot high fence that Victor likes on this
 14 property.
 15 **CHAIRWOMAN VILLAGIO:** Correct.
 16 **COMMISSIONER JANNOTTI:** Then I
 17 modify that to include that.
 18 I think that was all of the items
 19 that I wrote down.
 20 **CHAIRWOMAN VILLAGIO:** And they
 21 accept the engineer's report.
 22 **COMMISSIONER JANNOTTI:** Right.
 23 **MR. FRASER:** And will comply with
 24 same.
 25 **COMMISSIONER SCHERER:** I'll second

1 **COMMISSIONER JANNOTTI:** Yes.
 2 **MS. LEWIS:** Mike Vena?
 3 **COMMISSIONER VENA:** Yes.
 4 **MS. LEWIS:** Craig McCarrick?
 5 **COMMISSIONER McCARRICK:** Yes.
 6 **MS. LEWIS:** And Steve Napolitano?
 7 **COMMISSIONER NAPOLITANO:** Yes.
 8 **MS. LEWIS:** Motion carries.
 9 **MR. GIUNCO:** Thank you very much.
 10 Can I just clarify one point?
 11 There was a delegation -- I understand a
 12 delegation of authority to Victor with regard to
 13 the engineering details to bring into
 14 compliance.
 15 **MR. FRASER:** Right.
 16 **MR. GIUNCO:** Thank you.
 17 (Whereupon, the deposition
 18 concluded at 9:19 p.m.)
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CERTIFICATE

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I, Michael Lombardozzi, a Notary Public and Registered Professional Reporter of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place, and on the date hereinbefore set forth.

I do further certify that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel and that I am not financially interested in this action.

Michael Lombardozzi,
Notary Public, State of New Jersey
NCRA ID: 6532
Date: 2 015-09-09

A	adverse (2) 46:23 47:12	23:12 67:25	33:9 41:19 57:10 58:1 60:4	based (4) 18:6 37:8 38:5,16	45:18 47:13,23 48:9 49:12 50:1 51:16 53:11 54:11,16 57:11 58:12,15 59:24 61:9 62:5,12 66:20 67:1
A-1 (4) 2:9 7:21,24 30:3	advise (1) 40:14	applicant's (1) 3:22	asking (9) 8:17 9:24 11:21 12:13 14:2 20:14 51:4,6 72:3	basically (10) 8:23 11:3,14 26:23 27:13 29:21 31:25 32:8 44:4 48:17	board's (1) 45:19
A-2 (3) 2:10 10:19 10:23	aerial (1) 7:8	application (17) 3:3 4:2 7:18 21:6 21:19 42:3,6,22 42:25 47:17 48:17 50:7 51:16 58:11 60:19 62:12 64:3	aspect (1) 47:11	behalf (4) 3:25 13:18 23:12 62:14	board-on-board ... 20:22
A-U-C-I-E-L-L-... 40:10	aesthetically (2) 21:16 65:17	applications (1) 41:5	Associates (1) 5:22	beleaguer (1) 25:7	boards (3) 6:5 36:6 41:7
ability (1) 70:15	affirmative (3) 3:21 46:20 63:25	applying (1) 50:13	assuming (1) 70:13	believe (11) 13:9 15:17 18:21,23 19:12 26:14 38:1 44:24 46:8 55:2 72:5	borderline (1) 20:2
able (13) 17:15,18 21:16,17,18 37:21 45:16,19 47:25 51:17 52:3 53:2 54:1	afternoons (1) 55:12	approve (1) 68:21	attached (1) 26:1	benefit (1) 45:2	born (1) 53:19
absolutely (12) 17:17 46:2 48:5 49:22 50:16 51:20 52:15,21 54:13 55:18 68:18,19	ago (4) 5:21 35:16 56:17 58:6	approach (1) 39:18	attorney (2) 74:13 74:16	benefit/detriment... 63:3	BOROUGH (1) 1:1
accept (2) 70:1 71:21	agree (3) 25:11 55:19 69:1	appropriate (1) 25:5	Attorneys (2) 1:19 1:21	Bell (1) 8:9	bought (1) 56:13
acceptable (1) 70:17	agreeable (4) 18:16 18:18 23:18 51:9	approval (3) 47:23 69:16,23	Auciello (6) 2:5 4:11 40:3,9 41:11 48:7	benefits (2) 42:21 62:16	boundary (2) 8:16 15:2
accepted (3) 36:5 36:19 41:15	agreed (3) 14:1,3 65:19	approvals (1) 6:5	audience (7) 27:5 32:11 39:22 48:12 57:9 59:22 62:10	best (3) 17:6 34:22 68:17	Box (1) 1:23
access (2) 48:1 62:18	agreement (1) 70:6	approved (2) 3:21 59:17	augment (1) 69:20	bet (1) 25:1	breaking (1) 18:5
accurate (1) 74:8	aisle (1) 11:5	approves (1) 21:5	August (14) 1:6 8:18,20,21 11:10 30:19 32:1 51:3,4 52:2,4,8 55:3 67:16	better (2) 34:18 39:12	Brian (1) 57:17
achieve (2) 62:14 63:9	Alfred (2) 2:3 5:2	approximate (3) 7:11 37:20 39:4	authority (1) 73:12	buy (1) 52:19	bring (2) 26:17 73:13
achieved (1) 45:16	Allenwood (1) 1:24	April (14) 8:18 11:10 30:19 51:4 54:24 55:3 67:3,6 67:15 68:1,10,23 69:4 70:3	automobile (1) 9:10	broached (1) 66:24	building (4) 15:14 27:15 50:25 71:3
acknowledgment... 4:15	allow (1) 61:7	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	available (3) 15:8 17:20 62:18	built (1) 64:11	
acres (2) 7:11,12	allowed (4) 50:4,5 59:5 61:1	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	Avenue (12) 1:4,7 3:4 5:4 7:13 8:5,5 16:16 22:18 23:22 27:8 57:18	bulk (3) 44:13 46:22 63:2	
action (2) 74:14,17	alternated (4) 10:14 10:17 11:20 12:6	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	aware (2) 42:11 43:3	business (6) 5:3 34:17 53:25 54:12 63:12,21	
active (1) 15:18	alternative (5) 25:20 43:15,17 45:1,6	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	automobile (1) 9:10	buy (1) 52:19	
add (1) 52:23	amended (7) 28:2 29:15,17 30:13 37:4 38:3 51:16	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	big (3) 22:24 33:5 53:13	buying (1) 31:22	
added (1) 30:10	amount (6) 9:22 10:12 29:5 30:2 34:10 56:6	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	biggest (1) 9:8		
adding (1) 36:24	analysis (4) 47:16 47:23 63:2,3	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	Bill (3) 27:7 60:8 60:14	C	
additional (9) 34:18 36:25 37:6 38:17 45:14 51:17 69:21 70:8 70:11	analyze (3) 36:24 41:19 47:11	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	bit (1) 10:21	call (8) 4:19 10:19 25:4 35:2,3 40:2 48:19 72:18	
additionally (1) 37:5	analyzed (3) 4:10 47:22 62:21	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	black (2) 61:19 65:3	called (1) 36:23	
address (4) 5:3 7:13 27:6 46:8	angle (1) 25:10	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	blankets (1) 67:18	candle (1) 69:20	
addressed (2) 46:4 55:13	answer (1) 29:12	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	block (4) 1:5 7:10 66:2,4	canisters (1) 56:19	
ADELE (1) 1:15	anybody (6) 16:3 36:12 39:20 49:23 53:21 66:25	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	blockages (1) 58:24	canvass (1) 23:2	
adequate (4) 20:10 38:4 45:25 71:3	apartment (1) 26:21	area (81) 4:6 8:15 8:20,25 9:3,6,11 9:15,16 10:7 11:4 11:6,9,10,11,13 11:23 12:20,20 12:21 13:2,11 14:3,18 15:18,19 15:20 16:13,15 17:8 20:5,15,17 21:20 22:7 23:23 26:15 28:11,23 28:23 29:2,22,24 30:2,7,9,14,15,15 31:17,25 32:17 32:23 33:1,2,3,11 33:24,24 34:15 34:20 36:25 37:15,15,20,22 37:24 39:13,15 50:5,13 58:3 61:10,13 62:6 66:9,11,13,13 67:6,9	blocking (2) 56:7 57:21	capacity (2) 5:11 55:11	
adequately (3) 44:25 48:2 63:20	appeared (2) 5:10 41:7	area (81) 4:6 8:22 14:19 27:9 43:4,6 43:25 53:4	blocks (1) 57:2	car (1) 8:10	
adoption (1) 38:3	appearing (1) 3:25	areas (7) 8:22 14:19 27:9 43:4,6 43:25 53:4	Bloustein (1) 40:22	care (1) 6:5	
advance (1) 43:9	applicant (6) 1:21 3:4 4:1 14:21	asked (6) 29:10	board (54) 1:1,15 1:19 3:6,16,24 5:11,12,14 8:13 10:1,3,15 11:21 13:18 14:9 17:16 18:8 21:5 22:1 23:10,14,18 26:6 27:20 34:7,25 35:13 37:3 38:17 39:20 40:14 41:20 42:2 45:15	cars (3) 12:19 15:15 38:9	

cause (1) 50:14	31:23 32:3 51:23	COMMISSION...	confer (1) 24:3	4:21 5:14 35:14	8:7 13:3 15:7
center (5) 13:13	55:21 67:13,17	3:1,9,11,15 10:20	consensus (1) 63:5	creep (1) 24:24	19:10 32:23 34:1
24:16 31:1 34:15	67:20	15:12,23 16:9,14	consider (5) 11:21	criteria (2) 42:22	34:21 37:11
49:17	Chuck (1) 48:18	16:22 17:1,7	51:16 58:14 61:9	63:4	42:15,16 49:6
Central (1) 8:5	chute (1) 15:25	18:17 19:17,23	62:5	cross (1) 11:5	52:12,20 53:8
certain (2) 33:4	Ciesla (2) 1:20	20:1,6 22:9,20,23	constraints (2)	crowd (1) 56:18	56:19 57:3 58:1
42:11	3:25	23:7,19,21 24:6	9:17 55:25	curb (2) 12:17 16:5	58:10 60:18 61:2
certainly (6) 21:3	circulation (3) 39:8	24:13,23 25:6,23	constructed (1)	curbing (1) 28:21	61:6 62:4 63:20
38:19 42:20 43:8	39:16 43:23	26:4,9,19 29:23	14:20	current (1) 6:13	64:4 65:7 68:7
47:2 68:20	city (1) 40:18	31:4,12 34:13	construction (1)	currently (3) 10:9	69:13
certify (2) 74:7,12	civil (4) 4:20 6:11	49:16,24 50:6,17	65:21	39:13 43:3	Depot's (2) 19:21
chain-link (11)	6:17 35:17	50:19,21 51:21	consultant (2) 4:10	customer (2) 15:18	63:12
19:4,14 22:11,12	clarification (1)	53:16,23 54:9,23	35:3	48:3	Depots (1) 63:16
23:17 25:11,12	59:3	54:25 55:18,23	consultants (2)	customers (6) 48:1	describe (2) 41:24
25:15 26:2 61:16	clarify (3) 58:23	56:16 57:1,7	34:1 63:6	51:19 52:18,23	42:1
65:3	59:13 73:10	59:18 64:8,20,25	Consulting (1)	53:4 62:18	DESCRIPTION ...
Chairman (3) 3:23	clean (2) 67:8,13	65:12,14,24	40:10	cut (1) 37:19	2:8
48:16 62:11	cleaned (2) 67:6	66:14 67:2,14,22	contacted (1) 57:24		design (2) 12:11
Chairperson (2)	68:16	68:3,11,25 69:2,6	contains (1) 7:11	D	45:20
6:15 41:15	clear (1) 50:12	69:8,25 70:20,22	contemplate (1)	D (2) 4:23 60:15	designed (1) 18:13
Chairwoman (73)	Clearly (1) 42:14	70:25 71:5,7,16	47:9	d/b/a (1) 1:3	designers (1) 45:18
1:9 3:10,13 4:17	Cleveland (1) 5:4	71:22,25 72:8,13	CONTENTS (1)	date (4) 7:21 41:9	destroyed (1)
6:18 14:14 16:24	client (3) 21:3	72:16,22,24 73:1	2:1	74:11,21	65:21
18:19,23 19:6,14	37:13 62:14	73:3,5,7	continue (1) 22:5	dated (1) 7:7	detail (2) 12:18,25
20:11,20,23,25	close (1) 57:4	community (7)	convenience (1)	day (1) 27:16	details (1) 73:13
21:10,14 22:3,17	Coco (21) 2:3 4:9	43:11 44:11	57:3	days (2) 31:6 67:23	determination (1)
26:7 27:2 31:2,14	4:19 5:3 6:7,16	47:13 62:17	corner (2) 16:7,10	deal (1) 62:4	71:4
31:22 32:9,18,20	7:16,22 12:1	63:15,22 64:4	correct (23) 6:13	December (6)	determine (3) 21:9
33:8,13,16,18	14:13,17 15:7	compared (3)	13:4,5,15,19	54:24 67:4,12,21	23:18 46:21
34:3,24 36:21	17:11 21:8 23:19	34:21 44:20 54:3	28:24,25 29:3	68:24 70:3	determined (2)
39:19 41:16 48:8	34:6 35:16 37:17	complained (2)	30:1,12 33:12,22	decide (1) 66:21	37:11 46:10
49:14,20 51:2,25	38:17,21 42:24	59:9,12	34:12 44:8,12	decided (1) 37:19	determines (1)
52:11 53:7,10,18	code (3) 1:16 56:2	complaint (4)	45:12,16,17	decision (1) 51:13	23:14
54:15 57:8,15	57:23	57:20,23 58:24	46:16,17,18	deep (1) 8:17	detriment (2) 45:3
59:2,8,21 60:6	Cofone (1) 40:10	59:7	50:15 71:15	defined (1) 43:4	47:20
62:8 64:5 65:6,9	collects (1) 17:9	complaints (1)	corrected (1) 27:25	definitely (1) 38:24	development (2)
65:16 66:17	College (2) 5:19,20	56:4	costly (1) 25:15	degree (2) 35:17,18	6:1,4
67:11,19 68:4,22	color (3) 21:21	compliance (1)	council (1) 3:6	delegation (2)	deviation (1) 44:23
69:4,10 70:19	25:16 65:4	73:14	Councilman (1)	73:11,12	difference (2)
71:15,20 72:2,7	come (8) 3:14 23:1	complied (2) 56:10	1:10	deliberation (2)	29:17 55:17
72:11,14,17,20	26:20,21 45:19	58:4	counsel (3) 3:22	23:10,15	different (4) 25:2
chairwoman's (1)	52:19 67:16 70:6	comply (1) 71:23	74:14,16	deliver (1) 51:18	29:11 36:11
27:10	comes (1) 19:24	complying (1)	count (1) 39:4	delivered (1) 62:22	67:10
chance (3) 21:22	comfortable (1)	56:11	counties (1) 41:6	delivering (1)	direct (6) 5:5 14:12
38:15 68:8	38:12	component (1)	counts (2) 37:8	44:10	35:11 40:12 48:6
chances (1) 24:2	coming (6) 11:4	8:22	38:5	delivery (2) 38:22	49:3
change (5) 25:16	24:2 54:10 58:14	components (1)	couple (2) 6:23	48:4	directed (1) 45:13
29:8 44:15 68:12	60:18 68:14	8:12	15:21	demand (6) 31:20	direction (1) 6:25
70:15	Commencing (1)	compromise (1)	course (2) 48:2	37:4 43:11 63:14	discuss (4) 13:21
changed (2) 28:15	1:8	26:2	63:11	63:19,22	26:7 40:3 67:3
40:20	comment (6) 18:9	concede (1) 40:25	court (3) 36:9,13	demonstrates (1)	discussed (5) 3:20
changing (1) 39:10	37:6 60:12,23,25	concluded (1)	41:8	37:3	11:24 37:7,17,18
CHARLES (1)	62:10	73:18	Craig (2) 1:13 73:4	department (3)	discussion (5) 3:18
1:10	comments (3)	conclusion (1) 47:1	Cranford (1) 64:11	56:5 57:23 59:9	10:13 25:7 38:16
chief (1) 57:20	12:24 60:5 64:7	condition (1) 43:2	create (1) 60:19	deposition (1)	58:1
choice (1) 54:19	commerce (1) 47:9	conditions (1)	creates (1) 43:6	73:17	display (11) 4:6
Christmas (11)	commercial (3) 6:4	62:21	creating (1) 43:21	Depot (33) 1:3 3:4	8:24 9:2 11:23
30:20 31:3,5,15	42:17 48:3	conducted (1) 37:9	credentials (3)	4:1 5:24 7:7,15	33:3,23,24 34:2

50:4 61:13 66:13 displayed (1) 13:8 displays (6) 12:13 23:23 24:1 26:10 56:23 57:21 DiStefano (1) 56:2 document (1) 7:17 doing (6) 24:19,22 28:20 42:25 59:19 60:21 DONALD (1) 1:18 drawn (1) 26:16 driveway (1) 15:14 driving (2) 12:19 34:10 dual (1) 63:23 duly (5) 4:24 35:6 40:6 48:24 60:16 duration (4) 42:5,9 42:19 47:4	enforcement (3) 56:3 57:24 58:20 engineer (13) 4:9 5:8,17 11:18 34:7 35:5,21,24 36:3 39:21,23 45:19 70:4 engineer's (1) 71:21 engineering (13) 4:9,21 5:19,20,21 6:9,11,17 35:5,17 35:19 69:16 73:13 engineers (1) 18:20 enhance (1) 63:7 entire (2) 37:14 64:4 entitled (2) 7:6 10:18 equal (1) 55:5 equipment (1) 69:19 especially (2) 16:24 43:22 ESQUIRE (2) 1:18 1:20 essentially (3) 8:11 37:12,19 estimate (1) 17:19 evening (4) 4:8 7:1 10:4 38:8 event (5) 17:12 42:2 45:14,25 47:13 everybody (4) 3:2 38:14 56:13 68:23 exactly (3) 21:9 24:21 28:20 EXAMINATIO... 5:5 35:11 40:12 49:3 excellent (2) 23:5 68:6 excuse (2) 56:16 61:4 exhibit (9) 7:6,7,24 9:10 10:5,18,19 10:23 30:3 exhibits (2) 6:23 7:1 existing (3) 12:3 28:21 47:8 exists (2) 34:15 39:13 expand (2) 9:11 58:10	expanding (1) 10:7 expect (1) 22:25 experience (3) 5:15 35:25 40:15 experienced (1) 38:10 expert (6) 4:20 6:16 35:5 36:13 36:19 41:12 expertise (2) 6:8 35:24 extend (2) 51:9 70:2 extending (1) 52:1 extension (1) 46:15 extra (1) 37:12	<hr/> F <hr/> F (3) 1:8 4:23 74:1 fabric (1) 25:21 facility (1) 64:16 fact (5) 4:1 34:7 42:24 54:1 59:16 fall (2) 51:6 52:5 familiar (1) 13:6 family (1) 3:12 far (1) 25:7 fashion (1) 37:21 favor (1) 69:7 feature (1) 9:8 February (1) 68:19 feel (1) 20:10 feet (13) 8:17 9:4,7 9:16 11:11,12,14 11:15 15:23 20:24 26:23 61:17 71:6 felt (1) 55:9 fence (51) 15:24 19:3,4,9,9,13,15 19:21 20:3,7,19 20:22 21:24 22:1 22:4,11,13,13,19 22:24 23:16 25:8 25:8,9,22 26:2 27:11 60:23 61:10,16,16,21 64:7,8,10,11,17 64:18,21 65:9 69:12 70:10,12 70:14,15,16,17 71:6,11,11,13 fencing (4) 46:9,13 62:3,5 field (6) 4:20 6:17 35:23 36:1,19 41:12 fields (1) 6:8	figure (1) 28:20 financially (1) 74:17 find (5) 24:18 47:24 52:18 60:25 61:23 fine (2) 25:12 61:20 fire (8) 56:5,7,9 57:20,21,22 58:3 59:9 firm (1) 21:8 first (9) 6:24 7:6 8:14 29:24 33:9 41:24 42:13 54:25 63:24 fit (1) 16:4 five (2) 3:20 63:25 fixture (1) 14:7 flexibility (1) 23:12 flowers (3) 24:14 51:6 54:2 fluctuates (1) 34:17 flush (1) 12:17 folks (2) 38:10,13 follow (1) 52:16 following (2) 38:2 53:24 follows (5) 4:24 35:7 40:6 48:24 60:16 foregoing (1) 74:8 forgot (1) 49:15 formalize (4) 26:15 32:24 43:5,25 FORRESTER (1) 1:18 forth (1) 74:11 four (7) 7:11,12 16:23 17:2,22 39:3 70:10 frames (1) 54:19 FRASER (47) 1:18 1:18 3:16 4:25 6:7,12,15 7:16,20 8:1 12:7 21:23 23:4,9 24:11 25:3 27:21 31:24 32:6 33:17 35:8 36:4 36:10,14,18 40:7 40:21,23 41:14 48:18,25 50:11 51:12,24 59:16 60:2,10,13 66:7 67:12,24 69:14 69:22 71:10,23 72:10 73:15	Fred (5) 4:9,19 5:7 6:20 37:18 Fred's (1) 39:2 front (2) 26:10 33:10 full-size (1) 34:21 function (3) 12:15 42:7 47:19 further (4) 26:25 59:23 62:10 74:12	<hr/> G <hr/> G (1) 48:23 gain (1) 17:2 gamut (1) 41:3 garbage (1) 17:10 garden (5) 13:13 30:25 34:15,19 54:2 garden-type (1) 13:10 Garwood (7) 1:1,4 1:7 7:7 22:19 27:8,20 Gene (2) 1:12 72:25 general (2) 43:10 63:5 generally (2) 13:7 52:23 Giordano (2) 1:20 3:24 Giunco (57) 1:20 3:23,24 4:18 5:6 6:11,19 12:10 14:12 15:6 17:11 17:18,23 18:2,7 18:15,19 20:20 20:24 21:2,13,21 23:13 25:4 29:12 31:8 32:5,7 34:6 35:2,12 36:2,12 36:22 39:5,6 40:2 40:13 41:11,18 48:6,16,21 49:4 49:12 51:14 52:16,22 53:9 60:2,3 61:24 62:11 68:20 72:4 73:9,16 give (5) 9:15 11:3 17:19 68:1,8 gives (1) 11:12 go (24) 12:24 15:25 22:14,16,21,21 24:16 26:25 27:12 31:12 32:3	37:13 42:12 50:22 52:13 56:24 61:2,21 63:16 66:21 67:15,24 70:9 71:8 goes (3) 19:23 25:8 31:13 going (53) 3:11 4:19 5:13 6:22 7:20 8:16 9:5,14 9:25 10:10 12:16 12:16 13:25 16:16 20:6,16 24:19,24 26:11 26:12,15 27:20 28:1,10 30:20 31:25 32:2,3 35:4 37:23 39:14 43:8 44:3 46:10 49:20 50:11 55:14,14 55:15,16 56:15 61:6,11,13 63:24 65:19,20 66:3,22 67:5,15 69:12,18 good (8) 18:24 47:20 62:4 63:10 64:3 67:11 68:15 69:9 goods (10) 43:11 45:4,6 52:9,14,25 53:5 54:6,8 55:7 graduate (2) 5:18 35:16 graffiti (1) 65:13 grant (3) 42:3 47:13 63:8 granting (1) 46:22 grants (1) 47:23 grass (2) 28:23 50:5 grave (1) 67:18 green (1) 65:3 grills (1) 9:1 Group (1) 40:11 guess (8) 15:24 54:9 61:20 64:23 65:19 66:20 69:15,25 guy (1) 37:13
					<hr/> H <hr/> H (2) 2:7 35:6 HAK (5) 1:14 3:15 22:9,20 69:8 half (6) 32:2 33:15 37:20 40:11 49:11 57:2		

met (1) 63:20	36:6 41:6 57:18	okay (23) 6:18 7:23	61:11,12	Pat (3) 1:14 3:10	29:15,15,16,16
metering (1) 69:18	64:12 68:14,14	8:3 13:6 14:14	outdoors (1) 34:19	69:4	29:17,24,25 30:4
Michael (3) 1:12	70:13 74:7,20	16:16 20:14,17	outlined (1) 63:1	patrol (1) 22:11	30:13 33:9 37:4
74:5,20	Newark (2) 5:18,19	21:18,19,19 24:9	outside (2) 16:13	Paul (2) 1:11 72:23	38:3,16,25 39:17
Mike (1) 73:2	nice (6) 20:19,19	26:4 33:13 34:3	17:12	pavement (3) 11:8	43:15,17 45:1,11
Mile (1) 40:11	21:20 23:2 25:13	36:21 39:19	outweigh (1) 45:3	13:24 26:17	45:20 46:24 47:6
minimal (1) 44:22	68:9	41:16 46:3 53:7	overall (2) 43:21	paver (3) 30:15	47:8,22,24 48:22
minimum (3)	Nierstedt (25) 1:10	69:10 72:7,14	47:22	66:1,4	54:25 57:6 63:7
17:22 38:9 39:3	3:9 27:7,7,21,23	old (2) 16:2,2	owns (1) 70:14	pavers (5) 9:15	69:15,16 70:2
minute (1) 61:24	28:14,19 29:1,4,7	on-site (2) 21:6		13:24 28:11	planner (6) 4:12
mistaken (1) 31:1	29:10 30:6,10,16	62:21	P	29:21 65:25	5:17 40:3 47:21
mitigation (1) 66:3	30:23 31:10 60:4	one-to-one (1) 15:3	P (2) 1:17,17	PB15-06 (1) 3:4	47:24 63:4
MLUL (1) 43:9	60:8,8,10,12,17	ones (2) 52:23 70:8	P.C (1) 1:20	peak (4) 37:10 38:4	planning (13) 1:1
modifications (1)	62:1,9	open (13) 10:8,12	p.m (2) 1:8 73:18	38:6 55:11	24:4 40:16,18
12:12	night (2) 14:5	28:4,6,9 29:6,18	P.O (1) 1:23	pedestrian (1) 48:2	41:2,4,7,13 43:16
modifies (1) 10:15	22:12	29:18 44:14,15	pack (1) 67:23	people (11) 11:4	50:2 54:11 58:12
modify (3) 10:2	normal (1) 13:3	58:18 61:8 64:16	packets (1) 7:18	15:25 20:15	62:24
63:17 71:17	North (2) 22:18	operate (2) 13:2	pad (1) 55:17	27:16,19 34:10	plans (6) 5:23
month (2) 32:1	57:18	47:25	PAGE (2) 2:2,8	52:13 56:18,22	12:18 28:3 30:3
37:10	northerly (1) 8:15	operating (1) 62:19	paint (1) 64:23	64:18 66:10	36:25 43:14
months (6) 49:10	Notary (2) 74:5,20	operation (4) 33:6	painted (1) 70:21	percent (11) 10:8,9	plant (1) 13:9
50:22 53:1 54:6	notice (1) 4:16	44:7 62:15 63:10	painting (2) 23:2	19:20 28:9,12,13	planted (1) 14:19
58:6 64:16	November (2)	opinion (1) 20:19	64:17	29:13,19,19 54:7	planting (1) 61:12
morning (1) 38:7	51:22 67:16	Opportunistic (1)	paper (1) 17:9	55:19	please (5) 4:25 8:2
motion (7) 66:25	number (11) 10:16	51:24	parcel (1) 8:10	period (3) 8:20	27:6 48:25 72:18
72:1,10,12,13,15	14:19 17:24	opportunity (5) 4:5	park (2) 5:4 15:15	33:4 66:21	pleased (2) 21:4
73:8	28:14,15 29:8	13:17,20 41:21	parked (1) 45:1	periods (1) 55:11	23:24
mulch (1) 8:19	33:22,25 45:10	47:10	parking (80) 4:11	permanent (2)	pleases (1) 26:6
multiple (1) 43:9	46:4 56:4	opposed (1) 45:5	8:8 9:13,21,22,23	8:24 26:10	point (9) 21:5,7
mum (1) 52:8	numerous (1)	order (4) 4:4 12:15	9:23 11:1,2,11,16	permission (2) 4:18	22:10,18 31:19
mums (2) 52:6,7	60:20	19:7 30:13	11:20 12:1,3,5	54:11	53:12 56:13
municipal (1) 36:6	NYU (1) 35:20	orderly (4) 43:1	15:21 16:23	permit (2) 4:2,5	68:18 73:10
		45:8 47:18 62:15	23:23 24:7,15,16	permitted (12) 4:3	pointed (1) 34:7
N	O	orders (1) 52:24	24:18 26:20 28:2	8:19 31:3,5,8,18	points (2) 11:17
N (5) 1:17 35:6	O (5) 1:8 4:23,23	ordinance (9) 9:24	30:4,13,14 31:20	42:8,19,19 47:3,5	23:6
40:5 48:23 60:15	35:6 40:5	10:8,12 21:1,15	32:21 33:1,7,17	59:19	poles (1) 66:12
name (8) 5:1,2 27:6	o'clock (2) 38:7,8	31:18 46:21 47:6	33:19,21,22,25	PERROTTA (1)	police (2) 60:25
28:18 35:9 40:8	oath (1) 54:22	63:8	34:8,9,10,11	1:18	61:22
48:25 57:16	object (1) 61:25	organization (1)	35:23 36:1,24	personally (1) 55:8	Polytechnic (1)
names (1) 40:20	observed (1) 37:5	44:5	37:4,8,12,16,22	pervious (7) 9:15	35:19
Napolitano (3)	obviously (1) 28:5	organized (2)	37:25 38:2,4,5,9	11:7 13:24 28:11	portion (2) 19:3
1:11 73:6,7	occupied (1) 42:15	39:12 63:7	38:11,24 39:1,3	55:14 65:23 66:4	66:6
NCE (1) 35:16	occur (1) 34:14	original (3) 2:9 6:1	39:16 43:19	ph (1) 23:1	position (3) 49:5,9
NCRA (1) 74:21	October (3) 51:5	28:15	44:19,22 45:10	photograph (1) 7:8	49:11
near (1) 16:15	52:4,8	originally (1) 37:23	45:11 46:5 49:17	picked (1) 11:18	positive (2) 42:22
necessarily (1)	off-white (1) 64:21	outdoor (43) 4:3,6	50:3,9,15 53:2	pickup (1) 15:19	64:1
61:12	offer (4) 4:20 35:4	8:14,24 9:6,12	55:1,24 56:21	pile (1) 67:7	possible (4) 15:6
need (7) 9:20 10:11	36:2 41:11	11:8,12,13,23	57:4 60:20 62:21	place (9) 8:25	19:7 65:15 71:8
12:9 14:6 20:9	offered (1) 36:20	20:15,17 21:20	66:17,19 69:12	15:20 17:6 32:4	practice (3) 40:17
34:18 37:15	office (2) 7:2 64:11	22:7 26:10 27:14	70:11,11	39:14 50:14	41:2,8
needed (1) 37:11	officer (2) 56:3	27:14 31:13	part (3) 7:17 35:20	63:17 67:7 74:10	predominantly (1)
negative (1) 63:4	57:24	32:16,23 33:1,3	46:14	placed (2) 21:9	9:2
neither (2) 74:13	officers (1) 22:11	34:2,20 37:20	participate (1)	66:24	preference (1)
74:15	Official (1) 1:16	39:14 42:7,9	3:17	plan (48) 2:9,10	21:22
never (1) 64:18	offset (3) 13:23	43:13 44:3 46:9	particular (2)	7:7 9:9 10:1,2,15	prepare (2) 6:25
new (17) 1:7,24	16:20,25	46:13 47:3 54:2	42:13 63:19	10:17,18 11:21	38:25
5:18 6:3 18:6	offsets (1) 33:21	54:20 55:15 56:7	parties (1) 74:14	12:6 15:9 17:15	prepared (3) 4:13
30:15 35:20,22	Oh (1) 60:6	58:3,18 59:4 61:7	passes (1) 50:7	18:6 24:20 26:11	7:2 13:17

preparing (1) 5:23	42:20 43:12	questioning (1)	71:9	58:2	73:15
present (3) 4:21	64:13 70:23	3:18	recommendation...	removed (5) 14:23	Road (1) 40:11
10:3 35:13	71:12,14	questions (19)	14:8 58:19 66:15	50:24 51:1 56:10	Robert (2) 1:13
presentation (1)	proposal (1) 70:1	14:13 23:5,11	70:5	58:24	72:21
7:1	proposed (11) 7:9	27:3,5,22,23	recommending (1)	removing (4) 10:17	Roll (1) 72:18
presented (5)	12:12,14,23	34:25 39:21,23	17:16	11:1,22 30:4	room (1) 15:15
44:21 46:19	14:21 42:6,18	48:7,9,12 53:20	record (2) 7:10	replace (4) 15:2	round (4) 54:21
62:12,23 70:2	43:15 44:16,17	53:21 54:17 57:9	42:12	49:18,21 65:20	55:22 66:22 68:2
president (1) 5:21	47:4	59:23 60:5	recorded (1) 38:6	replaced (1) 70:8	rubber (2) 12:17
pretty (3) 33:15	proposes (1) 10:17	quite (2) 44:22,22	recuse (1) 3:12	replacement (1)	12:18
34:20 41:9	proposing (5) 9:10	Quonset (1) 53:16	recused (4) 1:10,10	14:22	run (1) 55:16
prevent (1) 12:19	10:25 45:24 47:7		1:14 3:7	report (1) 71:21	running (1) 25:10
previous (1) 54:3	72:9	R	Red (1) 40:11	Reporter (1) 74:6	runs (1) 41:3
previously (1)	provide (8) 4:14	R (8) 1:8,17 4:23	redevelopment (1)	REPORTING (1)	Rutgers (1) 40:19
59:17	5:14 25:25 28:2	35:6 48:23,23	41:4	1:23	
primarily (1) 62:13	43:1,13 45:21	60:15 74:1	reduce (1) 10:10	representatives (1)	S
prior (2) 31:6	48:1	R-E-A (1) 35:10	reduced (8) 11:14	15:8	S (4) 1:17 2:7 40:5
44:17	provided (5) 41:4	radius (3) 16:13	12:5 28:6,11	request (7) 27:11	60:15
privacy (1) 25:13	45:5,7,7 62:20	17:13 38:22	29:19,24 30:1	41:20 42:12 44:2	safe (4) 17:13
privilege (1) 5:24	provides (1) 65:5	rail (1) 64:12	34:8	55:9 61:7,8	43:22 48:1 62:19
probably (8) 7:14	providing (3)	railroad (12) 19:2	reduces (1) 9:21	requested (6)	safer (1) 43:6
21:23,24 22:1	10:11 33:21	19:10,21 21:17	reducing (8) 9:20	41:23 46:7,14,23	safety (2) 44:6
41:5 53:19 56:13	43:10	21:17 22:25	11:19 29:1,4	67:25 72:6	63:10
62:3	provision (3) 28:5	27:17,18,19	32:13,14,14	requesting (3) 8:12	sales (45) 4:3,5
problem (2) 24:20	28:6 70:4	37:23 64:15	33:14	27:13 42:8	9:12 11:13,13
57:5	public (3) 47:20	71:11	reduction (3) 29:18	require (4) 3:20	12:20 13:1,2
proceed (1) 8:2	74:6,20	railroad's (1) 25:9	43:18 61:8	43:18 44:14,18	28:23 29:24 30:2
Proceedings (1) 1:5	publication (1)	railroads (1) 20:16	referring (1) 6:22	required (6) 10:12	30:7,9,14 31:13
product (1) 52:19	4:16	raised (1) 61:17	refuge (1) 11:4	12:7 42:5 45:11	32:16,23 33:1,3
products (8) 13:7	pumpkins (2) 52:6	ran (1) 56:17	regard (5) 13:1	45:22,25	33:24 34:2,14
13:13 44:11	52:10	Raritan (1) 61:3	14:8 45:9 46:4	requirement (1)	36:25 37:15,20
51:18 52:23	purpose (2) 63:9	rating (1) 69:20	73:12	28:9	37:24 39:14 44:4
62:17 63:12,14	63:23	ratio (1) 15:4	regarding (1)	requirements (2)	51:18 53:3 54:7
professional (12)	purposes (5) 43:9	Rea (13) 2:4 4:10	27:11	4:11 17:14	54:20 55:16 56:7
4:12 5:8,11,16	44:1,10 45:20	35:3,4,10 36:2,4	regional (1) 40:18	requires (1) 10:8	56:12,12 58:3,11
19:1 35:4,21,24	63:21	36:15,18,23 39:7	register (1) 55:16	residential (1) 6:3	58:18,23 66:9,12
40:3 41:12 62:23	push (2) 20:7,7	42:24 44:24	Registered (1) 74:6	resolution (1)	66:21 67:1,5
74:6	put (19) 8:25 11:7	realized (1) 55:12	reinstating (1) 34:9	66:24	salvage (1) 37:21
professionals (1)	13:22,25 14:7	really (9) 26:15	reiterate (1) 60:22	respect (1) 45:4	satisfaction (1)
46:11	17:2,6,15 19:8	34:1 39:10 41:3	relate (1) 37:2	response (1) 18:8	15:10
project (2) 7:4,9	23:13 28:10 33:1	43:23 45:2 55:6	relates (2) 43:23	restraint (1) 55:2	satisfied (2) 39:8
projects (1) 6:2	37:24 39:1 50:4,7	67:4 68:5	44:13	restrictions (2)	55:9
proof (2) 4:14	52:3 61:18 68:13	rear (7) 9:15 14:18	relative (3) 42:24	11:24 53:6	satisfy (3) 14:10
65:13	putting (8) 9:14	19:1 61:1,3 66:6	74:13,15	result (1) 47:16	37:4 42:12
proofs (3) 4:16	28:21 29:20,21	70:12	relatively (1) 15:18	review (2) 13:17,17	Saturday (2) 38:6
42:11 46:20	50:2 51:23 55:5	reason (2) 34:14	relief (5) 44:14,19	revised (6) 2:10	55:12
propane (2) 56:17	71:12	58:23	44:22 46:15	10:18 29:25 57:6	Saturdays (1) 38:4
56:20	Q	reasonable (2)	67:25	66:18 70:1	saw (1) 33:10
proper (2) 65:5	qualified (1) 36:3	39:17,17	reliefs (1) 46:7	revises (1) 67:9	saying (1) 31:24
70:6	QUATTROCHI ...	reasons (5) 44:5	relocating (2)	rid (1) 68:9	says (1) 68:6
properly (2) 12:16	1:14 3:11	54:10,14 62:13	14:21,25	right (25) 3:1,19	scheme (1) 46:24
58:14	question (15) 14:17	62:25	rely (1) 42:2	8:8 16:4,5,7,15	Scherer (37) 1:13
properties (2) 61:2	18:25 30:18	recall (1) 53:15	remain (1) 20:5	16:15,15 18:4	10:20 15:12,23
61:4	31:10 32:10,11	recognized (1) 6:16	remark (1) 57:19	19:1 20:12 24:11	16:9,14,22 17:1,7
property (14)	32:13 33:9 49:13	recommend (6)	remember (2) 53:8	28:8,16 33:9 39:2	18:17 19:17,23
15:13 16:5 19:2,4	49:16 51:3,7 52:1	6:16 18:8 36:14	56:17	50:24 53:12 59:6	20:1,6 22:23 23:7
19:22 20:14	53:24 54:18	36:18 41:14 71:1	removal (1) 68:18	59:21 68:22	26:9,19 31:12
21:13 39:15		recommendation...	remove (2) 11:2	70:20 71:22	50:19 51:21

53:16 54:23 64:8 65:12 67:2,14,22 68:3,6,11 70:22 71:25 72:16,18 72:21,22 school (2) 40:21,22 school's (1) 40:24 screen (2) 20:5 27:17 screening (1) 26:1 season (2) 52:9 55:21 seasonal (7) 9:12 11:8,13 12:4,20 13:2 24:14 second (9) 3:3 8:22 9:25 10:5 57:18 60:22 71:25 72:16,18 Secretary (1) 1:15 security (3) 65:5 66:10,10 see (19) 3:22 14:5,6 16:20 18:20 20:12,16,18 21:16,17 22:12 22:13 23:24 25:17,17,23 39:1 61:22 71:6 seeing (8) 27:4 32:12 35:1 39:24 48:11,13 59:25 60:25 seek (1) 4:4 seeking (4) 10:7 13:21 28:12 54:11 seeks (1) 4:2 seen (1) 27:18 selection (1) 53:5 sell (4) 54:2 55:25 63:12,13 sells (1) 61:23 sense (1) 62:17 separate (2) 19:10 48:2 September (2) 51:5 52:8 serves (1) 63:23 service (1) 4:15 services (1) 45:4 serving (1) 43:10 set (2) 67:16 74:11 setback (1) 19:8 sets (1) 26:24 seven (1) 3:21 seven-member (2) 3:6,16	shaded (1) 29:21 shed (3) 23:23 50:4 50:24 sheds (7) 49:24,25 50:2,12,18 56:11 58:2 show (1) 10:15 sic (1) 3:23 side (4) 8:10,16 15:13 23:22 sides (1) 23:6 signed (1) 18:14 similar (2) 25:20 63:18 similarly (1) 63:1 sir (6) 6:10 14:11 23:20 36:8 49:7 54:14 site (30) 2:9,10 7:7 7:10 8:4 9:17 10:18 12:2,14,23 17:24 33:1,5,6 34:23 37:9 39:8 42:14 44:6,6,19 44:25 45:11 47:18,19,22,24 50:24 62:15 71:3 siting (1) 70:5 sitting (1) 16:2 situation (2) 43:6 60:20 six (4) 20:24 54:5 58:5 64:16 size (1) 26:23 slats (2) 25:14 61:15 slightly (2) 7:12 9:3 small (2) 13:22,25 snow (2) 67:8 68:18 soil (1) 8:19 sold (5) 9:1 13:7,11 31:15 68:5 solid (6) 20:21 22:13,19 23:15 64:11,21 solve (1) 39:18 somebody (2) 59:11 61:19 something's (1) 68:14 somewhat (1) 41:25 sorry (6) 8:1 10:6 28:2 37:14 57:12 69:5 sounds (1) 18:20	South (7) 1:4,7 3:3 7:13 8:4 16:16 23:22 space (28) 10:9,12 15:21 17:12 18:3 20:2 24:18 28:4,6 28:9 29:6,18,18 32:8,15 34:11,18 34:19 38:11 43:12,18 44:15 44:15 50:15 52:3 53:6 54:2 61:8 spaces (47) 9:11,14 9:21,22,23 10:16 11:2,2,3,16,22 12:1,5,9 16:8,20 17:20,24 18:5,9 24:7,15 30:5 33:19,23,25 34:8 34:9 37:6,12,22 37:25 38:2,18,20 38:24 39:1,3 44:23 45:11,14 45:21 46:5 55:1,4 58:17 70:12 sparked (1) 59:12 speaking (2) 20:21 45:10 special (2) 44:5 62:25 specifically (1) 18:13 specifics (2) 21:24 26:8 speed (1) 69:18 spell (3) 4:25 35:9 40:8 spoke (1) 56:3 spot (1) 32:21 spots (3) 16:23,25 50:3 spring (2) 31:21 37:9 square (7) 9:4,6,16 11:11,12,14,15 squeeze (1) 15:21 stack (1) 26:20 stand (2) 10:21 27:24 standpoint (2) 42:23 43:16 start (2) 23:2 51:22 state (13) 4:25 5:18 6:6 27:6 35:8,22 36:6 40:7 41:6 57:15 63:17 74:7 74:20 stated (1) 44:25	staying (1) 20:4 stays (1) 28:17 stenographically ... 74:9 STEPHEN (1) 1:11 Steve (1) 73:6 sticking (1) 64:24 sticks (1) 26:24 stone (3) 55:14 65:23,25 storage (22) 4:3 8:15 9:6,13 20:15 20:17 22:8 27:15 42:7,10 43:2,13 43:18 44:4 46:9 46:13 47:3 61:7 61:11,14,18 62:6 store (17) 8:16,19 8:23,25 9:2 17:5 17:8 24:4,10 25:2 25:3 26:11 30:22 48:19 49:6,10 56:15 stores (1) 53:4 stormwater (1) 13:22 straddle (1) 8:23 strategy (1) 68:16 strictly (2) 52:9 54:8 stripe (1) 16:20 striped (1) 18:14 striping (1) 38:20 strongest (1) 60:24 structure (2) 13:22 13:25 studies (2) 35:23 47:21 study (3) 37:3 41:21 46:20 stuff (6) 15:16 26:18 51:23 59:4 67:18 68:13 subject (4) 12:23 14:25 69:16,22 submitted (8) 9:9 10:1,3 29:15,16 30:4 44:21 55:1 substantial (3) 47:17,20 53:3 substantially (1) 56:8 sufficient (1) 43:12 suggest (2) 7:20 14:4 suggesting (1) 25:20	suggestion (1) 23:5 suitability (1) 42:14 suitable (1) 45:20 Suite (1) 40:11 suited (1) 42:20 summer (1) 24:14 superimposed (1) 7:9 superior (2) 36:9 36:13 supermarket (1) 8:7 supplied (1) 9:22 supplies (1) 13:14 supply (3) 9:21 11:20 12:3 support (1) 62:24 sure (22) 3:15 5:16 6:22 8:6 10:22 14:24 15:5,9,11 18:25 19:20 25:4 33:8 34:5 38:23 40:16 42:4 48:21 50:7 57:10 62:2 63:25 surface (1) 46:5 surveyor (1) 5:17 sworn (6) 4:22,24 35:7 40:6 48:24 60:16	templates (1) 38:22 temporary (11) 8:14 9:5,12,12 11:13 22:7 27:14 28:22 33:24 61:14 62:6 term (2) 44:2 46:15 terms (3) 5:14 12:11 33:6 terrible (1) 24:17 testified (6) 4:24 35:7 40:6 48:24 60:16 69:17 testifying (1) 6:8 testimony (12) 36:5 39:25 41:4 42:23 44:20,24 45:13 48:14 60:14 62:20,24 74:9 tests (1) 14:5 thank (21) 3:2,8,9 4:17 27:24 30:17 30:23 39:24 40:1 41:17 48:13,15 59:25 60:1,17,21 62:7,8 64:5 73:9 73:16 Thanksgiving (2) 55:20 67:18 That'd (1) 18:17 they'd (1) 58:10 thin (1) 55:10 thing (1) 14:17 20:12 64:9,13 things (6) 9:1 22:10 56:12 63:11 65:18 68:11 think (34) 8:9 17:3 17:21 18:12,21 21:1,2,23 23:8 32:22 33:2,4,20 34:16 35:20 38:13 39:2,16 40:23 43:16,19 56:12 59:2 61:22 62:20 63:5 64:2 68:6,7,15,17,23 69:8 71:18 thinking (1) 16:7 thoroughfare (1) 42:17 thought (4) 27:13 29:14 31:2 64:19 three (6) 8:12 16:22 17:22 27:9 39:3 64:13
T					
T (7) 2:7 40:5 48:23 60:15,15 74:1,1 TABLE (1) 2:1 Taco (1) 8:9 tactical (1) 51:12 tagged (1) 64:13 take (9) 6:5 9:13 22:21 24:9,15 27:15,19 38:25 39:14 taken (1) 74:9 takes (1) 15:19 talking (2) 16:14 22:6 Tarantino (6) 1:11 64:20 68:25 71:5 72:23,24 Tariz (6) 2:6 37:14 48:22 49:1,13 51:15 task (1) 37:1 taste (1) 60:24 tear (1) 22:21 tell (1) 37:13					

throw (2) 25:14 67:7	Trusdell (7) 57:13 57:17,17 58:5,22 59:6,11	vandals (1) 70:21	15:3,9 16:19 17:5 21:25 37:18 54:18 55:8,20 56:1 57:22 58:7 59:1,15 64:9 65:2 65:8,18 66:1,8,16 66:18 69:17,24 70:17 71:2	10:25 11:21,22 12:13,16,16 13:25 23:17 24:22 27:21 28:10,12 29:20 30:4,14 34:22 39:10,11 42:25 43:4,8,9 44:3 47:3 50:12 51:10 72:8	54:21 56:25 60:1 64:22 65:11	
tied (1) 25:21	try (1) 22:15	variance (27) 3:5 3:20 4:2 9:20,24 10:6,11 12:9 27:14 28:13 41:24,25 42:4,9 42:10 44:2,14,14 44:18 45:9,22 46:6,7,22 61:7 62:25 63:8	Vinegra's (2) 12:24 17:14	we've (8) 6:2 7:9 8:11 14:1,3 58:1 61:1 62:20	wondering (1) 22:24	
Tim (4) 1:14 3:10 3:13 25:11	trying (6) 28:19 34:22 39:11 43:5 43:24 51:10	variances (7) 4:4 40:4 41:20 46:23 62:24 63:2 72:4	vinyl (7) 19:8 20:21 60:23 64:17,21,22 65:10	Wednesday (1) 1:6	wood (2) 19:9 61:21	
time (22) 4:6 5:20 6:2 8:20 9:25 11:24 12:4,4 13:12 22:18 25:5 35:15 42:16 50:20 51:17 52:12 54:19 55:2 56:14,25 70:2 74:10	turned (2) 53:11 56:23	varied (1) 41:9	violation (1) 58:13	week (1) 23:24	Woodmont (1) 64:12	
times (2) 60:20 64:13	turning (3) 16:13 17:13 38:22	vegetables (2) 24:14 28:22	visual (1) 26:1	weekend (1) 24:17	words (1) 67:24	
today (5) 12:2 28:23 39:13 58:21 62:19	Twelve (1) 50:22	Vena (20) 1:12 3:1 23:19,21 24:6,13 24:23 25:6,23 26:4 49:16,24 50:6 54:25 55:18 55:23 56:16 57:1 73:2,3	volume (1) 66:4	welfare (2) 43:10 47:12	work (13) 17:4 18:21 38:13,13 43:20 51:10 65:7 65:22 66:2,11 69:13 70:4,16	
today's (1) 7:21	two (18) 8:22 11:2 11:3,16,22 12:9 16:25 17:2 18:3,5 43:14 44:23 49:11 55:4 56:17 56:19 57:2,7	versus (1) 54:7	vote (2) 64:1,2	went (4) 15:9 29:12 56:21,24	worked (1) 21:25	
tonight (7) 6:10 8:13 43:5 44:17 44:17,21 47:4	type (5) 20:21,22 42:17 65:22 66:3	vestibule (1) 26:24	votes (2) 3:21 63:25	weren't (1) 59:19	working (1) 5:24	
TORRO (1) 1:23	types (4) 6:4 13:7 13:13 52:22	Victor (8) 1:16 21:8 57:19 64:21 69:15 70:17 71:13 73:12	voting (1) 3:17	west (1) 15:12	works (1) 15:1	
total (3) 9:3,16 11:12	Typically (1) 26:16	Victor's (2) 69:12 71:8	<hr/> W <hr/>	Westfield (2) 57:18 61:23	wouldn't (1) 68:8	
touched (1) 48:20	<hr/> U <hr/>	village (1) 53:12	W (1) 60:15	white (2) 22:24 60:23	wrote (1) 71:19	
track (1) 19:2	U (2) 40:5,5	Villager (1) 53:9	wait (2) 51:22 61:24	wide (1) 26:23	www.torroreport... 1:25	
tracks (4) 22:15,25 37:23 64:15	ultimate (1) 38:25	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	waivers (2) 72:3,5	WILLIAM (1) 1:10	x (2) 1:5 2:7	
tractor-trailer (1) 16:11	ultimately (1) 23:9	Village (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	walk (1) 71:2	winter (1) 31:19	<hr/> Y <hr/>	
traffic (9) 4:10 11:18 35:3,5,23 35:25 39:21 48:3 48:3	uncomfortable (1) 38:11	Victor's (2) 69:12 71:8	walked (1) 58:16	wish (1) 32:25	yeah (14) 18:12 20:25 22:20 30:8 38:19 39:10 57:5 58:8 64:22 65:8 66:18 67:14,22 68:3	
trailer (3) 16:1,2 66:5	understand (3) 30:16 60:24 73:11	village (1) 53:12	walkthrough (1) 66:6	witness (100) 2:2 5:2 6:9,14 7:19 7:23 8:3 10:22 12:8 14:24 15:5 15:11,17 16:6,12 16:18 17:3,17,21 18:1,4,12 19:5,12 19:16,19,25 20:4 20:9 22:5 23:11 23:20 24:3,9,21 25:1,19,25 26:5 26:14,22 27:3,22 27:24 28:8,17,25 29:3,6,9,14 30:1 30:8,12,21,25 31:17 32:16,19 32:22 33:12,15 33:20 34:5,12,16 35:10 36:8,16 40:1,9,22,25 41:15,17 48:10 48:12,15 49:1,18 49:22,25 50:10 50:16,23 51:8,20 52:5,15,21,25 53:15 54:5,13,17	winter (1) 31:19	year-round (1) 67:1
trailers (1) 66:6	unsafe (1) 60:19	village (1) 53:12	want (20) 16:9 23:16 25:13,16 32:24 48:18 50:2 50:4,8 51:9 58:14 60:17,22 61:18 61:21 63:13 66:11,11,21 68:13	wish (1) 32:25	years (10) 5:22,25 23:22 24:8 35:22 40:17 49:11 54:3 56:17 63:15	
train (1) 27:15	urge (1) 64:2	Villager (1) 53:9	wanted (5) 34:4 53:12 57:13 58:22 59:13	winter (1) 31:19	years' (1) 35:25	
training (1) 40:15	USA (1) 1:3	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	walked (1) 58:16	winter (1) 31:19	Yep (1) 52:25	
transcript (2) 1:3 74:8	usage (3) 31:5 49:17 52:10	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	wants (3) 22:1 32:23 63:21	winter (1) 31:19	York (1) 35:20	
Transit (1) 70:14	use (25) 3:5,19 4:2 4:6 9:10,20 20:15 36:6 41:24,25 42:4,6,10,17,18 43:7,22 44:2,3,9 46:6,22 54:12 62:25 65:23	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	wasn't (3) 59:4,8 59:10	winter (1) 31:19	<hr/> Z <hr/>	
translate (1) 62:16	usually (2) 15:25 16:1	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	way (8) 15:20 19:24 22:8 23:13 27:12 45:7 51:15 67:6	winter (1) 31:19	Z (1) 48:23	
transportation (1) 35:18	utilize (2) 51:18 54:2	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	we'll (9) 10:19 14:4 14:7 23:16 24:9 26:7 65:22 66:2 69:11	winter (1) 31:19	zone (3) 42:8 47:6 47:8	
traveling (1) 20:16	<hr/> V <hr/>	Villagio (72) 1:9 3:10,13 4:17 6:18 14:14 16:24 18:23 19:6,14 20:11,23,25 21:10,14 22:3,17 26:7 27:2 31:2,14 31:22 32:9,18,20 33:8,13,16,18 34:3,24 36:21 39:19 41:16 48:8 49:14,20 51:2,25 52:11 53:7,10,18 54:15 57:8,15 59:2,8,21 60:6 62:8 64:5 65:6,9 65:16 66:17 67:11,19 68:4,22 69:4,10 70:19 71:15,20 72:2,7 72:11,14,17,19 72:20	we're (37) 4:13 8:12,17 9:10,14 9:20,24 10:6,7,10	winter (1) 31:19	zoning (9) 1:16 41:7 46:21,24 47:6 56:2 57:23 58:20 63:7	
trees (14) 14:18,22 15:1 30:20 31:3,5 31:15,23 32:3 54:3 67:13,17,20 70:8	Valley (1) 61:3	Vinegra (32) 1:16 10:14 11:17 13:18,21 14:16	<hr/> W <hr/>	winter (1) 31:19	<hr/> 0 <hr/>	
tried (1) 60:3	V (1) 48:23		W (1) 60:15	winter (1) 31:19	08/25 (1) 7:8	
truck (2) 24:19 48:4			wait (2) 51:22 61:24	winter (1) 31:19	08720 (1) 1:24	
trucks (1) 38:22			waivers (2) 72:3,5	winter (1) 31:19		
true (1) 74:8			walk (1) 71:2	winter (1) 31:19		

1	30 (2) 5:22 24:15 30th (1) 51:5 31st (18) 8:18,21 11:10 30:19 32:1 51:3,4,5 52:2,4,4 54:24 67:4,12,16 67:21 68:24 70:3 320 (2) 27:7 60:9 324 (1) 11:12 35 (2) 2:4 35:22 36 (1) 1:23				
1,120 (1) 9:6 1,300 (1) 9:3 1.05 (2) 1:5 7:11 10 (4) 2:10 24:7 38:7 40:17 100 (3) 19:20 41:5 55:19 100,000 (1) 56:11 11.6 (2) 10:10 29:19 114,600 (1) 54:6 12 (2) 26:23 28:12 125 (1) 40:11 14 (1) 41:5 140 (1) 38:9 15 (3) 5:25 10:8 28:10 150 (1) 38:9 152 (2) 9:22 38:11 16 (4) 10:9 28:9 29:13,19 171 (3) 12:5 38:1 38:12 173 (3) 12:3,8 17:25 175 (1) 39:4 1766 (1) 40:20 18 (1) 49:10 19 (2) 37:21,24 1st (15) 8:18,20 11:10 30:19 51:4 51:22 54:24 55:3 67:3,15,16 68:1 68:23 69:5 70:3	4	4 (2) 2:3 8:17 4,114 (1) 11:14 40 (2) 2:5 35:25 403 (1) 1:7 45 (1) 31:6 49 (1) 2:6			
	5	5-foot (1) 69:20 501 (2) 1:5 7:10			
	6	6 (4) 21:14 38:7 61:17 71:6 6-foot (1) 71:13 6532 (1) 74:21			
	7	7 (1) 2:9 7,000 (1) 32:14 7,192 (1) 9:16 70s (1) 40:25 732 (1) 1:24			
2	8	8-foot (1) 66:12 8:13 (1) 1:8			
2-foot (1) 69:19 20 (1) 5:25 200 (1) 40:11 2015 (2) 1:6 37:9 2015-09-09 (1) 74:21 21 (8) 9:10,13,21 11:1,16 30:4 37:21 55:1 224 (3) 1:4 3:3 7:13 240 (1) 57:18 25 (1) 15:23 256-4648 (1) 1:24 26 (1) 1:6 261 (1) 5:3 270 (1) 38:1	9	9 (1) 54:7 9:19 (1) 73:18			
3					
3 (1) 28:13 3,000 (1) 11:15 3,790 (1) 11:11					