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NORTH FAYETTE TOWNSHIP BOARD OF SUPERVISORS  
PUBLIC HEARING

- - - - -

IN RE: )  
)  
Conditional Use )  
Application 2021-11-CU )  
filed by Earl Burns )

- - - - -

North Fayette Township  
Municipal Building  
400 North Branch Road  
Oakdale, PA 15071  
June 22, 2021; 6:04 p.m.

- - - - -

BEFORE: James Morosetti, Chairman  
James R. Mangan, Vice Chairman  
Robert Doddato, Treasurer  
Michael Baker, Township Manager  
Michele M. Cromer, Esquire,  
Township Solicitor  
Marlyn Jordan, Township Secretary  
ALSO PRESENT: Andrew H. Hartwell, Community Development  
Director  
Michael V. Saville, Township  
Building and Code Officer

- - - - -

TRANSCRIPT OF PROCEEDINGS

- - - - -

Reported by:  
Leah M. Attanucci  
Professional Court Reporter

LaGAMBA REPORTING SERVICES  
302 Maxwell Street  
Pittsburgh, PA 15205  
(412) 458-0439

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EXHIBITS:

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

2 (6:04 o'clock p.m.)

3 MR. MOROSETTI: I call this  
4 meeting to order. Everybody please stand for the  
5 Pledge of Allegiance.

6 (Pledge of Allegiance recited.)

7 MR. MOROSETTI: Roll call, please,  
8 Marlyn.

9 MS. JORDAN: Board of Supervisors,  
10 Bob Doddato?

11 MR. DODDATO: Here.

12 MS. JORDAN: J.R. Mangan?

13 MR. MANGAN: Here.

14 MS. JORDAN: Jim Morosetti?

15 MR. MOROSETTI: Here.

16 MS. JORDAN: Township Manager,  
17 Michael Baker?

18 MR. BAKER: Here.

19 MS. JORDAN: Chief of Police,  
20 Donald Cokus?

21 (No response.)

22 MS. JORDAN: Solicitor, Michele  
23 Cromer?

24 MS. CROMER: Here.

25 MS. JORDAN: Township secretary,

1 Marlyn Jordan? Here.

2 MR. MOROSETTI: Thank you, Marlyn.

3 New Business. The North Fayette  
4 Township Board of Supervisors is holding this  
5 Public Hearing to take public comment on the  
6 following: Conditional Use Application  
7 2021-11-CU filed by Earl Burns for approval of a  
8 home occupation at 443 Bateman Road in the R-2  
9 Suburban Residential Zoning District, Allegheny  
10 County Parcel ID No. 689-H-11.

11 And at this time, we will take comments  
12 from the floor. Okay. Anybody that is going to  
13 speak, please stand right now and be sworn in.  
14 You cannot speak if you're not sworn in. There's  
15 only one person that's going to speak. Okay.

16 (Witness was sworn.)

17 MR. MOROSETTI: Okay. Andrew,  
18 would you like to state the information for this  
19 Board, please?

20 MR. HARTWELL: Yes. Thank you,  
21 Mr. Chairman, Members of the Board. I would ask  
22 you to refer to the staff Memorandum regarding  
23 the conditional use application which will be --  
24 it will be entered into the record as an exhibit.

25 (Exhibit No. 1 was marked for

1 identification and entered into the record.)

2 MR. HARTWELL: This application is  
3 for a conditional use approval of a home  
4 occupation at 443 Bateman Road in the R-2  
5 Suburban Residential Zoning District. In your  
6 packet, a copy of the application is enclosed.

7 This application went before the  
8 Planning Commission on June 2, and it did receive  
9 a recommendation for approval.

10 We did receive written testimony  
11 regarding the application from two neighboring  
12 property owners, John Barton and Bridget O'Hara  
13 at 449 Bateman Road and Christopher and Dana  
14 Chandler at 445 Bateman Road.

15 If you refer to Page 2 of the Memo,  
16 this is an overview of the history of the  
17 application. And I can go through that for you,  
18 if you'd like.

19 MR. MOROSETTI: Let's have it.

20 MR. HARTWELL: So on November 13  
21 of 2019, a zoning permit was issued for a  
22 residential detached storage building at  
23 449 Bateman Road. Due to the size of the  
24 structure at 960 square feet, a building permit  
25 was not required. Only a zoning permit was

1 needed.

2 The accessory structure must adhere to  
3 the setback requirement, which is ten feet, in  
4 that zoning district. And on July 15 of 2020, a  
5 Certificate of Occupancy was issued for the  
6 structure at 449 Bateman Road.

7 In December of 2019, the Applicant  
8 applied to subdivide the property into three  
9 separate lots as part of the Burns-Zaslocke  
10 subdivision plan. This subdivision plan was  
11 approved by the Township on May 26 of 2020.

12 After approval of the subdivision plan  
13 but prior to recording of the plan with Allegheny  
14 County, the Applicant constructed the structure.  
15 And a Certificate of Occupancy was issued for a  
16 residential detached storage building.

17 In December of 2020, a complaint was  
18 received regarding the Applicant using the  
19 structure for use as a commercial business on  
20 Lot 3, which is 443 Bateman Road. Commercial  
21 businesses are not allowed in the R-2 zoning  
22 district as principal uses. And stand-alone  
23 accessory structures may not be located on a lot  
24 without a principal structure, a home.

25 As such, a Notice of Violation was

1 issued by Code Officer Saville for unlawfully  
2 maintaining an accessory structure on a property  
3 without an existing principal structure and for  
4 operating an unlawful business within the  
5 structure.

6 To remedy the situation, the Applicant  
7 agreed to construct and occupy a new home on  
8 Lot 3 thereby allowing the existing garage to be  
9 utilized as an accessory structure. Further, the  
10 Applicant agreed to apply for a conditional use  
11 approval of a home occupation to allow for the  
12 operation of the electrical business.

13 For more information, please see the  
14 attached Consent Order and Forbearance Agreement  
15 prepared by the Township Solicitor dated  
16 December 17, 2020.

17 So per the Zoning Ordinance, a home  
18 occupation which has been applied for shall be a  
19 permitted conditional use subject to the  
20 following the express minimum standards and  
21 criteria listed below. As part of an app- -- the  
22 application, the Applicant must demonstrate to  
23 the satisfaction of the Board of Supervisors that  
24 the minimum standards and criteria listed will be  
25 met and adhered to. If any of the minimum

1 standards and criteria cannot be met or adhered  
2 to, the Applicant can request relief through the  
3 modification process specified in  
4 Section 27-601.I.

5 All requests for modifications or  
6 waivers shall be in writing and shall accompany  
7 the application for development. The requests  
8 shall state in full the grounds and facts of  
9 hardship or evidence of equal or better result on  
10 which the request is based, the provision or  
11 provisions of the Chapter involved, and the  
12 minimum modification necessary. No modifications  
13 were requested with this application.

14 On the next page, you'll find the  
15 minimum standards and criteria for this use. The  
16 Applicant this evening does need to demonstrate  
17 to you that they will agree to abide by these  
18 rules, because they are expressed in the  
19 Ordinance.

20 Would you like me to go through those,  
21 or would you --

22 MR. MOROSETTI: Quickly. Yes.

23 MR. HARTWELL: Okay. So the home  
24 occupation shall be carried on wholly within the  
25 principal or accessory structure. No more than



1 15 percent of the gross floor area of the  
2 principal dwelling and any accessory structures  
3 used shall be devoted to the conduct of the home  
4 occupation. Articles not produced on the  
5 premises shall not be sold on the premises.  
6 There shall be no display of merchandise for sale  
7 on the premises. However, merchandise may be  
8 stored on the premises for delivery off of the  
9 premises. Exterior displays or signs other than  
10 those permitted in Article X of this Chapter,  
11 exterior storage of material and exterior  
12 indication of the office home occupation or  
13 variation from the residential character of the  
14 principal structure shall not be permitted.  
15 Objectionable noise, vibration, smoke, dust,  
16 electrical disturbance, odors, heat, or a glare  
17 shall not be produced. The use shall comply with  
18 the performance standards of Article VIII of this  
19 Chapter.

20           The use shall not significantly  
21 intensify existing vehicular or pedestrian  
22 traffic that is normal for the residences in the  
23 neighborhood. The use shall not require internal  
24 or external alterations or construction features  
25 which are not customary to a dwelling or which

1 change the fire rating of a structure.

2           There shall be no use of materials or  
3 equipment except those of a similar power and  
4 type normally used in a residential dwelling for  
5 domestic or household purposes. The use shall  
6 not cause an increase in the use of water,  
7 sewage, garbage, public safety, or any other  
8 municipal services beyond that which is normal  
9 for the residences in the neighborhood.

10           The use shall not cause a negative  
11 impact of lot values in the immediate  
12 neighborhood. The home occupation shall not  
13 involve the use of commercial vehicles for  
14 regular delivery of materials to or from the  
15 premises. And commercial vehicles shall not be  
16 permitted to be parked on the premises. One work  
17 vehicle is permitted on the premises.

18           Those criteria conditions -- for you to  
19 grant approval, he has to agreed to abide by  
20 those.

21                       MR. MOROSETTI: This is to grant a  
22 home occupation?

23                       MR. HARTWELL: Correct.

24                       MR. MOROSETTI: Correct?

25                       MR. HARTWELL: Yes, sir.

1 MR. MOROSETTI: Okay. Not a home  
2 storage shed?

3 MR. HARTWELL: An occupation is  
4 what is applied for.

5 I did mention before we do have two  
6 letters that I'll read into the record quickly  
7 from some neighboring residents.

8 MR. MOROSETTI: Are these people  
9 present tonight?

10 MR. HARTWELL: I don't know.

11 MR. CHANDLER: I am.

12 MR. MOROSETTI: And they are?

13 MR. CHANDLER: Chris Chandler.

14 MS. O'HARA: Bridget O'Hara.

15 MR. BARTON: John Barton.

16 MR. MOROSETTI: Okay.

17 MR. HARTWELL: So the first letter  
18 is from Mr. Barton and Ms. O'Hara at 449 Barton  
19 (sic) Road, Oakdale, PA, 15071. It's addressed  
20 to the Board of Supervisors.

21 To the Board of Supervisors: Our names  
22 are John Barton and Bridget O'Hara. And we live  
23 at 449 Bateman Road adjacent to the Applicant's  
24 property at 443 Bateman Road.

25 We are aware that the Applicant is

1 seeking conditional use approval for a home-based  
2 occupation at his property which is currently  
3 zoned only for residential purposes. Our intent  
4 behind submitting this written testimony to be  
5 read during the relevant portion of the Public  
6 Hearing is to ensure that the Board is aware of  
7 the nature of the current and proposed use by the  
8 Applicant.

9           The property is currently occupied by a  
10 large single -- by a single large metal barn  
11 structure that was erected within the last year.  
12 More recently, we have observed numerous  
13 commercial vehicles, machinery, and workers  
14 coming to and from the existing structure  
15 throughout the day and in the evenings. We have  
16 also observed equipment and vehicles being stored  
17 on the property. We have observed large  
18 commercial lights erected on poles to illuminate  
19 the property throughout the night.

20           This activity has significantly  
21 increased the levels of noise, vibrations,  
22 emissions, light pollution in the otherwise quiet  
23 and residential area.

24           Needless to say and contrasting with  
25 the name of the conditional use that this

1 Applicant is seeking, both the vehicular and  
2 on-site work activity have a continuing impact  
3 and is changing the essential character of the  
4 area.

5           As the Board is aware, Section 27-1402  
6 of the Township Code defines a no-impact  
7 home-based business as a business or commercial  
8 activity administered or conducted as an  
9 accessory use which is clearly secondary to the  
10 use as a residential dwelling and which involves  
11 no customer, client, or patient traffic, whether  
12 vehicular or pedestrian, pickup, delivery, or  
13 removal functions to or from the premises in  
14 access -- in excess of those normally associated  
15 with a residential use and which otherwise comply  
16 with the requirements of Section 27-205,  
17 Subsection 6B of this Chapter. For the purposes  
18 of this Chapter, an occupation conducted within  
19 the home that does not fit the definition of  
20 no-impact home-based business shall be defined to  
21 be a home occupation.

22           The intent of the no-impact home-based  
23 business as provided for within both the Township  
24 Zoning Ordinance and the Pennsylvania  
25 Municipalities Planning Code is to permit work

1 functions that do not alter the residential  
2 character of a neighborhood like an accountant's  
3 home office, an artist's studio, or a  
4 dressmaker's sewing room.

5           Contrasting with this, the Applicant's  
6 recent use of the property and the use for which  
7 he is seeking this Board's approval has included  
8 frequent visits by workers with commercial  
9 vehicles and equipment presumably to gather  
10 materials and prepare for electrical contracting  
11 jobs that are performed at work sites elsewhere.  
12 The Applicants's proposed use has, therefore,  
13 been akin to a warehouse or a contractor's garage  
14 operation that one might find in the commercial  
15 or industrial districts of the Township and  
16 elsewhere.

17           Additionally, the requirements set  
18 forth for home occupation in Section 27-7031Y.(2)  
19 of the Township Code restrict the business usage  
20 of the gross floor area of the principal dwelling  
21 and any accessory structures to 15 percent. The  
22 existing metal barn structure and the proposed  
23 modular house appear to be of near equal size on  
24 the plan included with the application indicating  
25 that roughly 50 percent of the gross floor area

1 of both structures and 100 percent of the  
2 accessory structure will be used for business  
3 purposes.

4           Additionally, we are in the process of  
5 acquiring an approximately 69-foot-by-239-foot  
6 strip of land from the eastern edge of the  
7 Applicant's parcel that is currently the subject  
8 of the application. This strip of land will  
9 become part of our parcel by way of a  
10 consolidation plan. As a result, the Applicant's  
11 proposed modular home as shown on the plans  
12 submitted with the application will sit  
13 approximately 20 feet from the new western  
14 boundary of the lot. The Applicant's submitted  
15 plan indicates that the eastern boundary of his  
16 lot has a 30-foot side setback requirement which  
17 the proposed modular home would sit inside of.

18           For these reasons, we are in opposition  
19 to the Applicant's proposed use. And we  
20 respectfully ask that the Board of Supervisors  
21 deny the application and to direct zoning officer  
22 to, once again, instruct the Applicant to cease  
23 his commercial use of the property.

24           Respectfully, John Barton and Bridget  
25 O'Hara, copied to Thomas McDermott, the Township

1 Solicitor's, office.

2 MR. DODDATO: Andrew, can you  
3 point out on there what parcels we're talking  
4 about they're acquiring just so that I have a  
5 better visual?

6 MR. HARTWELL: Parcel 443 is owned  
7 by Mr. Burns.

8 MR. DODDATO: Yes.

9 MR. HARTWELL: 445 is owned by the  
10 Chandlers.

11 MR. DODDATO: Okay.

12 MR. HARTWELL: And 449 over here  
13 (indicating) is owned by Mr. Barton and  
14 Ms. O'Hara.

15 MR. DODDATO: Okay. And which one  
16 is acquiring --

17 MR. HARTWELL: That application --

18 MR. DODDATO: Why -- which parcels  
19 are they acquiring?

20 MR. HARTWELL: So the O'Haras and  
21 the -- Ms. O'Hara and Mr. Barton live in this  
22 parcel (indicating). They have proposed to  
23 acquire a strip of land from Mr. Burns' parcel.

24 That application is -- will be going to  
25 the Planning Commission in August and does not



1 have any bearing on this --

2 MR. DODDATO: Okay.

3 MR. HARTWELL: -- application.

4 MR. DODDATO: I just -- I didn't  
5 understand it. Wait a second. There's five  
6 parcels up there. And I just wanted to make sure  
7 which one they were -- so the actual parcel  
8 they're acquiring is not even up there? It has  
9 to be created? It hasn't been subdivided yet?

10 MR. HARTWELL: Yes. If that  
11 application were to go through the Planning  
12 Commission and that house is -- well, actually,  
13 the house will need to be shown on the plan.  
14 Okay? We have not responded to this with any  
15 sort of comments.

16 If he is not able to meet his setback  
17 requirements, he would need to apply for a  
18 variance of the Zoning Hearing Board. That would  
19 be the only way he would be able to do the plan  
20 as it's proposed.

21 MR. DODDATO: Okay. And then  
22 where is the permanent residence of Mr. Burns?

23 MR. HARTWELL: Not on that  
24 parcel. I don't know where Mr. Burns lives.

25 MR. DODDATO: Where is your

1 permanent residence?

2 MR. BURNS: My permanent residence  
3 would be --

4 MR. DODDATO: No. Where is it  
5 today?

6 MR. BURNS: I have an apartment in  
7 -- on Steubenville Pike.

8 MR. DODDATO: Okay.

9 MR. HARTWELL: I do have one more  
10 letter.

11 MR. MOROSETTI: Yes. All right.  
12 One other question. Andrew --

13 MR. HARTWELL: Yes, sir.

14 MR. MOROSETTI: -- you stated this  
15 application has no bearing on this at all if they  
16 purchase that property.

17 But if they purchase that property, it  
18 says in here they will be -- the structure will  
19 be 20 feet from the border. And as it is right  
20 now, it is more than 20 feet; correct?

21 MR. HARTWELL: That application  
22 has -- you can't -- that application is not -- he  
23 could withdraw it tomorrow. You can't base the  
24 decision for this application on something that  
25 is proposed.

1 MR. MOROSETTI: I understand  
2 that. But it said there that if -- when they  
3 purchase this property that the double wide would  
4 be 20 feet from the property line where it's  
5 stated it has to be 30 feet by zoning.

6 MR. HARTWELL: Correct. He would  
7 -- they would not be able to proceed --

8 MR. MOROSETTI: So if they did not  
9 sell them that property, these are in compliance;  
10 correct?

11 MR. HARTWELL: Correct.

12 MR. MOROSETTI: Okay. That's all  
13 I wanted to state. Thank you.

14 MR. DODDATO: And another  
15 question. Is a detached storage building an  
16 approved use in the Residential Zoning District?

17 MR. HARTWELL: As an accessory  
18 structure to the principal use.

19 MR. MOROSETTI: So much --

20 MR. HARTWELL: So the cart is kind  
21 of before the horse because the accessory  
22 structure was built before the house.

23 MR. SAVILLE: That was before the  
24 property was subdivided the first time. So  
25 the -- when the zoning permit was issued, it was

1 issued because at the time, his property included  
2 the home.

3 MR. DODDATO: Which home?

4 MR. SAVILLE: The --

5 MR. HARTWELL: This one  
6 (indicating).

7 MR. SAVILLE: 449.

8 MR. DODDATO: Okay.

9 MR. SAVILLE: So before that was  
10 subdivided into four parcels as it is now, 443  
11 and 449 were to- -- were one parcel. So there  
12 was an existing single family home. So -- and a  
13 detached accessory structure was a permitted use  
14 at the time when the permit was issued.

15 He then went and subdivided it  
16 afterwards. That's making it non-compliant.

17 MR. DODDATO: How did that get  
18 through, the subdivision?

19 MR. HARTWELL: The structure was  
20 not shown on the subdivision plan. The permit  
21 was applied for in the meantime before it was  
22 constructed. And it was just a zoning permit.

23 The subdivision plan came through.  
24 Okay? The Township approved the subdivision  
25 plan. The structure had still not been

1 constructed. In the meantime, the pass between  
2 the time that the Board of Supervisors approved  
3 the plan and it was recorded, the structure was  
4 then built. A certificate of compliance was  
5 issued for a zoning permit.

6 So when staff went in to issue the  
7 permit, it was still one parcel in the system.  
8 It wasn't until after the permit had been issued  
9 that the subdivision was processed by the County  
10 and the subdivision actually happened.

11 MR. DODDATO: Is it part of our  
12 protocol when we get a subdivision to look if  
13 there's outstanding building permits or liens or  
14 anything of that matter? Because I guess -- you  
15 know, I don't know if it is. But I'm worried  
16 that this could happen again.

17 MR. HARTWELL: So, yeah. If  
18 the -- so at the time, the subdivisions were not  
19 entered into TRAISR.

20 MR. DODDATO: Okay.

21 MR. HARTWELL: They are now.

22 MR. MOROSETTI: It's part of the  
23 new ordinance.

24 MR. HARTWELL: That's right.  
25 Well, it's part of some changes that were made to

1 track --

2 MR. MOROSETTI: Right.

3 MR. HARTWELL: -- subdivisions and  
4 land developments that are entered into TRAISR.

5 But at the -- again, though, when you  
6 go into TRAISR, it's an asset -- I mean, it's a  
7 parcel-based service.

8 So when a permit is applied for at 449,  
9 okay, and you go into TRAISR -- and Gary -- then  
10 when they went in to do the Certificate of  
11 Occupancy. And in TRAISR, it was still one  
12 parcel. No red flag had -- was raised.

13 MR. SAVILLE: Uh-huh, right.

14 MR. HARTWELL: And it was a  
15 different parcel because the subdivision  
16 literally had not been processed through the  
17 County, and it was not showing up as three  
18 separate parcels --

19 MR. SAVILLE: Yeah. And, again,  
20 on the --

21 MR. HARTWELL: -- or consecutive  
22 addresses.

23 MR. SAVILLE: Yeah. And even when  
24 the permit was issued in November of '19, it was  
25 not -- the subdivision wasn't done yet anyways.

1 MR. DODDATO: Well, because the  
2 building --

3 MR. SAVILLE: So --

4 MR. DODDATO: The building  
5 happened. The accessory structure was  
6 constructed. And then the property was sold --

7 MR. SAVILLE: Subdivided.

8 MR. DODDATO: Or subdivided and  
9 then sold.

10 MR. SAVILLE: Correct. And he --

11 MR. DODDATO: I mean, basically,  
12 this never should have happened. And so what I'm  
13 trying to understand is how do we prevent  
14 something like this from happening again?  
15 Because this is like a perfect storm of --

16 MR. HARTWELL: Well, actually, it  
17 goes back to the -- the person that sealed that  
18 subdivision plan is supposed to show any existing  
19 or proposed structures.

20 MR. DODDATO: Okay.

21 MR. HARTWELL: They did not.

22 MR. DODDATO: And who was on  
23 that?

24 MR. HARTWELL: I -- the plans -- I  
25 believe it was Wachter-Willis or --

1 MR. SAVILLE: So what happened is  
2 when they filed for the subdivision plan, they  
3 did not show this building on that plan.

4 MR. DODDATO: Did you inform them  
5 that you had an accessory structure?

6 MR. BURNS: No, I did not. I  
7 didn't realize I had to. I applied for a  
8 permit. I just -- and I guess -- I realize some  
9 things I did was wrong, but I thought I was doing  
10 it the right way.

11 MR. DODDATO: I mean, so  
12 essentially right now, we have a full-blown  
13 business in a residential district. I mean, a  
14 business is usually somebody teaching piano  
15 lessons --

16 MR. BURNS: Yeah. I mean --

17 MR. DODDATO: -- or a woman doing  
18 acupuncture. Yeah.

19 MR. BURNS: To that point --

20 MR. MOROSETTI: Please state your  
21 name, sir.

22 MR. BURNS: I'm sorry?

23 MR. MOROSETTI: Stand and get  
24 sworn in.

25 (Mr. Burns was sworn.)



1 MR. BAKER: Your name, sir?

2 MR. BURNS: Earl Burns. Within  
3 less than a quarter of a mile there, there's --  
4 Todd Niederriter has an electrical business that  
5 he's running as a home business. Both of the  
6 Lutz families have a -- have the home  
7 construction business right up the road from  
8 there. I mean, it's not uncommon in the area.

9 MR. DODDATO: The only uses I'm  
10 familiar with is the CPA. What's her first name,  
11 Connie?

12 MR. MOROSETTI: Connie Lutz.

13 MR. BURNS: Right across the  
14 street.

15 MR. MOROSETTI: Ted and Jeff had  
16 that business maybe -- Ed had it there, their  
17 father. So that's been around for 100 years.

18 MR. BURNS: Mr. Niederriter has it  
19 right down the street right behind the farm.

20 MR. MOROSETTI: Yes. Andrew,  
21 would you like to read the other letter?

22 MR. HARTWELL: Yeah. Sure.

23 MR. SAVILLE: If I may make one  
24 comment --

25 MR. DODDATO: Yeah.

1                   MR. SAVILLE:  -- here just to kind  
2 of help the situation, is that maybe  
3 understanding it a little more is the zoning  
4 permit was not issued for a business.  It was  
5 issued for a residential detached storage  
6 building.  And that's what was applied for on the  
7 application.  There was no indication whatsoever  
8 from the Applicant on the application that this  
9 building was being used to run a business out of  
10 when he applied for the permit.

11                   So there was nothing that indicated --  
12 no red flags to throw up that --

13                   MR. DODDATO:  Yeah.

14                   MR. SAVILLE:  It could have been  
15 anybody applying for a permit to put up a garage  
16 to store their boats, motor home, you know,  
17 whatever in.

18                   MR. DODDATO:  Okay, okay.

19                   MR. HARTWELL:  And this was  
20 brought to our attention through a complaint.

21                   MR. DODDATO:  So you never even  
22 communicated to the Township that you wanted to  
23 have a business there?

24                   MR. BURNS:  At the time, I was  
25 running the business out of my house -- or out of

1 my garage. And I didn't realize --

2 MR. DODDATO: At your apartment?

3 MR. BURNS: No, when I lived at --

4 MR. SAVILLE: When he lived at

5 449 --

6 MR. DODDATO: Okay.

7 MR. SAVILLE: -- before he

8 subdivided it and --

9 MR. MOROSETTI: Sold. But this  
10 seems to me this was in the planning all along.  
11 He had a plan with this that he would subdivide  
12 the property, sell the house you were living in,  
13 sell your house and start your business there and  
14 build a house there --

15 MR. BURNS: No, sir.

16 MR. MOROSETTI: -- before it was  
17 subdivided.

18 MR. BURNS: No. It essentially  
19 happened all at the same time. I mean, to call  
20 it a -- it wasn't like it was a mastermind of a  
21 plan. It was just something that I did, and all  
22 of the pieces fell into place.

23 As far as selling the house between the  
24 property value and the subdivision is because we  
25 had an offer on the property behind us.

1 MR. MOROSETTI: Mr. Chandler, do  
2 you have something to say?

3 MR. CHANDLER: Well, yes. I mean,  
4 we've been neighbors --

5 MR. MOROSETTI: State your name,  
6 please.

7 MR. CHANDLER: Chris Chandler.

8 MR. MOROSETTI: Thank you.

9 MR. CHANDLER: Just to that point,  
10 Earl and I have been neighbors since -- well,  
11 it's been seven years. We moved next to each  
12 other within a couple of months seven years ago,  
13 me at 445, him at 449.

14 And when I heard they were subdividing  
15 the property, we did have discussions, at least a  
16 half a dozen, about possibly doing a deal where I  
17 would expand my lot.

18 So I can say from my knowledge that it  
19 had been Earl's plans to construct that building  
20 for his business, subdivide the property. And  
21 then my understanding was that he would run the  
22 business out of there, hand it over to his son.  
23 And they were going to move to Florida.

24 So there was definitely planning. And  
25 I assumed that everything was on the up-and-up

1 because who would invest all of that time and  
2 money and energy into putting a commercial  
3 structure into a non-commercial zone. You're  
4 putting yourself at a tremendous risk. And I've  
5 taken risks before, and believe me, they hurt  
6 when they don't pay off.

7 But in this case, Earl had a foresight  
8 in planning. And this was exactly his plan, was  
9 to build that building for his business. He had  
10 been running his business next door, and it  
11 wasn't a problem. It was just one truck and his  
12 son. And the delivery truck would come up every  
13 day in the morning. And it wasn't a big problem  
14 except for that van when it got stuck in the ice  
15 and the snow in their driveway.

16 But his plan was to build this  
17 structure so that he could house his business  
18 down there, subdivide it, sell the house, keep  
19 running the business.

20 MR. DODDATO: Thank you.

21 MR. MOROSETTI: Andrew, do you  
22 want to read that other letter?

23 MR. HARTWELL: I want to read the  
24 other letter to speak -- to get it into the  
25 record.

1           This letter is from Christopher and  
2 Dana Chandler.

3           MR. CHANDLER: It's not as well  
4 written as the other letter that you've -- so I  
5 apologize.

6           MR. HARTWELL: This letter is  
7 written to ask the Planning Commission to deny  
8 Earl Burns' and Linda Zaslocke's application for  
9 a home occupation conditional use of the  
10 residentially-zoned property known as 443 Bateman  
11 Road.

12           The granting of conditional use to  
13 operate his electrical business has serious  
14 negative effects on my property value and quality  
15 of life living at our adjacent property,  
16 445 Bateman Road.

17           Specifically, we believe that the  
18 following minimum standards and criteria for the  
19 application for the home occupation business  
20 conditional use will not be met.

21           No more than 15-percent gross floor  
22 area space used for business. Existing  
23 commercial building is approximately the same  
24 size as the proposed home.

25           Exterior storage of material. Ladders,

1 conduit, et cetera, are stored outside the  
2 commercial building.

3           Objectionable glare. A commercial  
4 light post was installed which illuminated a  
5 large portion of our property, including our  
6 home. The post was subsequently taken down by  
7 order of NFT.

8           Negative impact on lot values. I now  
9 live next to a large gravel parking lot with  
10 commercial activity instead of green grass and  
11 trees.

12           Use of commercial vehicles. A large  
13 box truck makes regular deliveries. Commercial  
14 vans are parked in the lot. And vans return to  
15 the site throughout the day to re-supply.

16           In particular, the use of commercial  
17 lighting and the installation of a large gravel  
18 parking lot to accommodate his commercial  
19 vehicles and large box truck deliveries are not  
20 compatible with a residential setting.

21           If conditional use is granted, we  
22 request that illumination of the gravel parking  
23 lot be restricted and that a requirement for  
24 restorative landscaping to return the lot to a  
25 residential appearance be added as a condition of

1 granting conditional use.

2           Respectfully, Christopher R. Chandler  
3 and Dana J. Chandler.

4           MR. MOROSETTI: Thank you,  
5 Andrew.

6           Andrew, do you have any other comments  
7 on this?

8           MR. HARTWELL: I guess just a few  
9 points.

10           The letter that I just read refers to a  
11 large gravel parking lot. Parking lots would not  
12 be permitted on this lot. You are permitted to  
13 have a driveway which can be gravel.

14           MR. DODDATO: Is what?

15           MR. HARTWELL: Can be gravel.

16           MR. DODDATO: Can?

17           MR. HARTWELL: Can be gravel.

18           MR. DODDATO: Okay.

19           MR. HARTWELL: Yes. And I'd defer  
20 to Mike about any size restrictions of  
21 driveways. But I don't believe there are any.

22           MR. SAVILLE: No.

23           MR. DODDATO: But this isn't a  
24 driveway from -- based on the pictures. It's  
25 more of a parking lot.



1 MR. HARTWELL: Right.

2 MR. SAVILLE: Yeah. That's --

3 MR. HARTWELL: Yeah. That -- a  
4 parking lot would not be permitted there, nor can  
5 a parking lot be gravel, by the way.

6 MR. MOROSETTI: It matters if it's  
7 gravel or paved; correct? It's not permitted?

8 MR. HARTWELL: It's not permitted,  
9 not in a residential district like that on a  
10 single lot. The only time --

11 MR. MOROSETTI: And that should be  
12 paved, also?

13 MR. HARTWELL: Correct. Well, a  
14 parking lot has to be paved. But a parking lot  
15 is not allowed in --

16 MR. MOROSETTI: A residential  
17 area.

18 MR. HARTWELL: -- a residential  
19 area district like that.

20 We do -- the comment about the  
21 15 percent of the floor area -- and just to  
22 clarify, we do not -- that does not say that the  
23 building cannot be a certain size. It just says  
24 that the area devoted to the business cannot be  
25 more than 15 percent.

1           The interior to this building, that  
2 means that 15 percent of the space could be used  
3 just to clarify. That's -- again, the accessory  
4 structure is not limited to 15 percent of the  
5 size of the building, of the house. I wanted to  
6 clarify that.

7           MR. DODDATO: Okay. But there's  
8 no house?

9           MR. HARTWELL: There's no house  
10 right now.

11          MR. MOROSETTI: No house there.

12          MR. HARTWELL: There's a proposed  
13 house which we -- you would add that and the  
14 accessory structure for a percentage -- or the  
15 square footage of floor together. And then you  
16 would be able to use 15 percent of that number.

17          MR. DODDATO: So you would almost  
18 need to build a house that's 85 percent larger  
19 than the accessory structure, is that correct, in  
20 order to use the --

21          MR. HARTWELL: Well, if you want  
22 to use the whole building --

23          MR. SAVILLE: If the entire  
24 accessory structure's being used for the  
25 business.

1 MR. DODDATO: And are the plans  
2 for a house that large?

3 MR. SAVILLE: They're roughly the  
4 same size. I can tell you the square footage of  
5 the accessory structure plan is 960.

6 MR. DODDATO: Okay.

7 MR. SAVILLE: The square footage  
8 of the home that also includes a basement -- I  
9 can run through the other permit here. The  
10 square footage of the proposed home is 24-by-38.  
11 Let's take that times two. It is 1,842.

12 MR. DODDATO: Okay.

13 MR. SAVILLE: The total square  
14 footage of both floors.

15 MR. DODDATO: Okay.

16 MR. SAVILLE: But it's a single  
17 ranch with a full basement and a garage.

18 So if the house is 1,842 square feet  
19 and the detached structure is 960 square feet --

20 MR. DODDATO: So based on that,  
21 he'd be able to use 420 square feet. So about  
22 half of the detached structure?

23 MR. MOROSETTI: Right.

24 MR. HARTWELL: Also, to point out  
25 that the operator of the business must reside in

1 the house on the premises. So you can't rent it  
2 out, for example, and still operate the home  
3 occupation.

4 MR. DODDATO: Yeah. I do want to  
5 just -- Chris or Christopher, can you -- your  
6 letter says there's a lot of traffic. But in  
7 your testimony, you said that there was usually  
8 one vehicle that would come each day and pick up  
9 materials and all of that stuff.

10 Has something changed between when he  
11 first opened the business and a truck came every  
12 day to now that there's a lot of traffic?

13 MR. CHANDLER: Not to repeat. But  
14 in my letter, I don't know if I specifically  
15 mentioned traffic or if I did not.

16 MR. MOROSETTI: He did.

17 MR. CHANDLER: But the delivery  
18 truck has been ongoing since -- you know, since  
19 we started -- you know, since I moved in seven  
20 years ago. The delivery truck usually shows up  
21 daily.

22 MR. DODDATO: Yeah.

23 MR. CHANDLER: Maybe twice a day.  
24 I'm not sure. I was off this past week. So I  
25 was able to observe it a couple of times.

1 MR. DODDATO: Yeah. Because it  
2 said to accommodate commercial vehicles and large  
3 box truck deliveries.

4 MR. CHANDLER: Yeah. I mean, that  
5 area was all just green grass. It was like a  
6 meadow down there and trees. And then, you know,  
7 he stripped -- I think I was on vacation one week  
8 in Florida and came back. And, you know, the  
9 land -- he stripped out the land, you know, and  
10 poured a bunch of gravel on top, you know, and  
11 shaved the land and cut the trees. And, I mean,  
12 that was just green grass meadow down there and  
13 trees.

14 And so -- the reason for it being the  
15 size it is was so that that box truck could come  
16 in and do a three-point turn, you know.

17 MR. DODDATO: Uh-huh.

18 MR. CHANDLER: Come in. And then  
19 it's got to turn around --

20 MR. DODDATO: Right.

21 MR. CHANDLER: -- to get back  
22 out. It's kind of a tight drive there. So that  
23 was my understanding of the -- why the dimensions  
24 of the gravel, you know, parking lot area, as I  
25 call it, is the way it is, you know.

1           If someone was going to put a home  
2 there, I would not rip out all of the grass and  
3 the trees and then put down a quarter acre of  
4 gravel. I mean, if I was going to, you know,  
5 build a house --

6           MR. DODDATO: Yeah.

7           MR. CHANDLER: -- that wouldn't be  
8 the first thing I did. It was never intended to  
9 be a house. This is purpose built for the  
10 business. And it's trying to be retrofitted now,  
11 because, again, oops, he didn't have the zoning  
12 proper. And he just went ahead and built it.  
13 And, you know, unfortunately, I'm taking a loss  
14 on that. I can't get the green grass and the  
15 trees back. And then you could plant some trees,  
16 but it'll be 50 years at least until they get as  
17 big as they used to be.

18           So, I mean, there's no winners here.  
19 I've already taken an out. Many neighbors have  
20 taken an out. Earl and Linda had no intention of  
21 living there. Now, they're going to take an out  
22 because they've got to put a house there that  
23 they're probably going to want to live in.

24           So I don't know what the best way  
25 forward is. But, you know, my particular

1 interests that I expressed in the letter were the  
2 exterior lighting particularly at night was -- at  
3 -- threw me over the edge. That's when I  
4 finally called the Township and got involved and  
5 said something can't be right here, you know. I  
6 know he got permits and this and that. But I  
7 said something can't be right. And I mentioned  
8 to him the lights, but nothing happened. But,  
9 you know, we had to get a blind, you know, those  
10 blackout shades, you know, for my daughters'  
11 bedrooms. And --

12 MR. DODDATO: Okay.

13 MR. MOROSETTI: Okay.

14 MR. CHANDLER: Yeah. The lighting  
15 is the main issue that affected -- that could  
16 easily be remedied. No big parking lot light  
17 should be allowed there.

18 And then the second thing, the land's  
19 already stripped. It looks like a commercial  
20 lot. I encourage you to view the lot. It's not  
21 far from here. I invite you to my property,  
22 445 Bateman Road. Since Earl and Linda are  
23 applying for this condition, I'm sure they'll  
24 invite you to their lot at 443. Take a look at  
25 it and see. Just look around and say am I on a

1 residential lot looking to attach a business, or  
2 am I on a business lot that's looking to attach a  
3 home?

4 By the way, I would be remiss if I  
5 didn't mention it for our own safety. There is a  
6 high-pressure gas line that runs underneath the  
7 property very close to where they are excavating  
8 for their house. On the application, it shows a  
9 ten-foot offset from that pipeline.

10 I called the pipeline company yesterday  
11 and talked to the gentleman. Because they just  
12 came by and cleared trees. That pipeline runs  
13 through my property, also. There's a 25-foot  
14 easement on each side of the pipeline.

15 So for God's sake, make sure that  
16 you -- we don't do any digging under that  
17 high-pressure transmission line. That's not a  
18 customer -- that's not a service line. That runs  
19 over 100 miles. And it's a commercial  
20 high-pressure big gas transmission line. I have  
21 the gentleman's name from Equitrans gas, if  
22 anybody's interested. This is the pipeline  
23 company that owns it.

24 MR. MOROSETTI: Were you aware of  
25 that?



1                   MR. CHANDLER: I told them what  
2 was happening, and he almost had a heart attack  
3 and said that he was going to --

4                   MR. MOROSETTI: Were you aware of  
5 that?

6                   MR. SAVILLE: There's an  
7 easement --

8                   MR. MOROSETTI: Yeah.

9                   MR. SAVILLE: -- on the survey.

10                  MR. MOROSETTI: I saw that.

11                  MR. SAVILLE: It's several --

12                  MR. HARTWELL: Mr. Chandler called  
13 me yesterday. I did speak to the man from the  
14 gas company. I informed him, you know, of the  
15 application. I told him what was on the plan.  
16 He then told me, well, then maybe that easement  
17 is correct. He was supposed to have his land  
18 department look into it and get back to us. They  
19 never did.

20                  I did call the Township engineer. And  
21 I was informed that what is represented on the  
22 plan is what is supposed to be out there.  
23 There's -- if it was not represented on the plan,  
24 okay, then that's the information that some  
25 person --

1                   MR. MOROSETTI: How is that  
2 easement in association with where they plan to  
3 build?

4                   MR. HARTWELL: It is located  
5 outside of the easement shown --

6                   MR. MOROSETTI: Okay.

7                   MR. HARTWELL: -- on the drawings  
8 submitted to us.

9                   MR. MOROSETTI: Okay, okay.  
10 Mr. Burns?

11                   MR. BURNS: Yes. I was aware of  
12 the lights and the damage they were causing.  
13 Then I spoke to Mr. Chandler. I agreed at the  
14 time to adjust them. And then naturally I  
15 realized what it was and told him what I did was  
16 wrong. They were removed. They've been removed  
17 for a period of time.

18                   And since then, I have spoke with both  
19 parties. I agreed to help or to contribute  
20 financially for any type of landscaping that they  
21 care to do. Since then, I've already planted  
22 pine trees. I ran the plan past Mr. Barton. I  
23 asked him if he'd like to look at it. At the  
24 time, he said he was fine with whatever I was  
25 going to plant.

1           So I have been working -- attempting to  
2 work to remedy the situation with my neighbors  
3 and make it better.

4           MR. MOROSETTI: Okay. Are there  
5 any other comments on the issue?

6           (No response.)

7           MR. MOROSETTI: Anybody on the  
8 Board have anything?

9           (No response.)

10          MR. MOROSETTI: Andrew, do you  
11 have anything else?

12          MR. HARTWELL: No.

13          MR. MOROSETTI: Mike?

14          MR. SAVILLE: No.

15          MR. MOROSETTI: This Board has  
16 45 days to make a decision on this hearing. And  
17 then -- so that will be sometime -- probably the  
18 second meeting in August or the first meeting.  
19 Again, I don't think we'll make it.

20          MR. HARTWELL: It would actually  
21 be the July 13 meeting because we don't have a  
22 second meeting in July.

23          MR. MOROSETTI: Okay.

24          MR. HARTWELL: And the 45 days  
25 would be up prior to the August 10 meeting.

1 MR. MOROSETTI: Right.

2 MR. HARTWELL: Or before the  
3 August 10 meeting.

4 MR. MOROSETTI: So this Board has  
5 exactly 45 days. We will make a decision and  
6 have it ready by the 10th or the 24th.

7 MR. HARTWELL: July 13 actually.

8 MR. MOROSETTI: 13, July 13.  
9 Okay. We will have a July 13 meeting. That's  
10 the next meeting.

11 MR. DODDATO: Okay.

12 MR. MOROSETTI: Okay. I need a  
13 motion.

14 MR. MANGAN: I'll make a motion to  
15 adjourn this Public Hearing.

16 MR. DODDATO: I'll second.

17 MR. MOROSETTI: All in favor?

18 ALL: Aye.

19 MR. MOROSETTI: The motion  
20 carries. This hearing's adjourned. We'll make  
21 our decision by July 13. Thank you.

22 (The above-entitled matter was  
23 concluded at 6:47 o'clock p.m.)

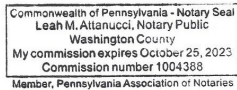
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C E R T I F I C A T E

I hereby certify that the proceedings  
and evidence are contained fully and accurately  
in the stenographic notes taken by me on the  
hearing of the within cause and that this is a  
correct transcript of the same.



*Leah M. Attanucci*

\_\_\_\_\_  
Leah M. Attanucci  
Notary Public

My Commission Expires October 25, 2023.

'19 22:24	<b>accompany</b> 8:6	<b>administered</b> 13:8	<b>alter</b> 14:1	15:8,12,21 16:17,24 17:3,11 18:15,21,22,24 26:7,8 30:8,19 40:8 41:15 (29)
<b>10th</b> 44:6	<b>accountant's</b> 14:2	<b>affected</b> 39:15	<b>alterations</b> 9:24	<b>applied</b> 6:8 7:18 11:4 20:21 22:8 24:7 26:6,10 (8)
<b>15percent</b> 30:21	<b>accurately</b> 45:5	<b>after</b> 6:12 21:8	<b>am</b> 11:11 39:25 40:2	<b>apply</b> 7:10 17:17
<b>202111cu</b> 1:5 4:7	<b>acquire</b> 16:23	<b>afterwards</b> 20:16	<b>andrew</b> 1:15 4:17 16:2 18:12 25:20 29:21 32:5,6 43:10 (9)	<b>applying</b> 26:15 39:23
<b>24by38</b> 35:10	<b>acquiring</b> 15:5 16:4,16,19 17:8 (5)	<b>again</b> 15:22 21:16 22:5,19 23:14 34:3 38:11 43:19 (8)	<b>another</b> 19:14	<b>approval</b> 4:7 5:3,9 6:12 7:11 10:19 12:1 14:7 (8)
<b>24th</b> 44:6	<b>acre</b> 38:3	<b>agency</b> 1:25	<b>anybody</b> 4:12 26:15 43:7	<b>approved</b> 6:11 19:16 20:24 21:2 (4)
<b>25foot</b> 40:13	<b>across</b> 25:13	<b>ago</b> 28:12 36:20	<b>anybody's</b> 40:22	<b>approximately</b> 15:5,13 30:23
<b>27601i</b> 8:4	<b>activity</b> 12:20 13:2,8 31:10 (4)	<b>agree</b> 8:17	<b>anything</b> 21:14 43:8,11	<b>are</b> 6:21 8:18 9:25 11:8,12,22,25 14:11 15:4,18 16:19 19:9 21:21 22:4 31:1,14,19 32:12,21 35:1 39:22 40:7 43:4 45:5 (24)
<b>277031y2</b> 14:18	<b>actual</b> 17:7	<b>agreed</b> 7:7,10 10:19 42:13,19 (5)	<b>anyways</b> 22:25	
<b>30foot</b> 15:16	<b>actually</b> 17:12 21:10 23:16 43:20 44:7 (5)	<b>agreement</b> 7:14	<b>apartment</b> 18:6 27:2	
<b>689h11</b> 4:10	<b>acupuncture</b> 24:18	<b>ahead</b> 38:12	<b>apologize</b> 30:5	
<b>69footby239feet</b> 15:5	<b>add</b> 34:13	<b>akin</b> 14:13	<b>app</b> 7:21	
<b>6b</b> 13:17	<b>added</b> 31:25	<b>allegHENy</b> 4:9 6:13	<b>appear</b> 14:23	
<b>abide</b> 8:17 10:19	<b>additionally</b> 14:17 15:4	<b>allegiance</b> 3:5,6	<b>appearance</b> 31:25	
<b>able</b> 17:16,19 19:7 34:16 35:21 36:25 (6)	<b>addressed</b> 11:19	<b>allow</b> 7:11	<b>applicant</b> 6:7,14,18 7:6,10,22 8:2,16 11:25 12:8 13:1 15:22 26:8 (13)	
<b>about</b> 16:4 28:16 32:20 33:20 35:21 (5)	<b>addresses</b> 22:22	<b>allowed</b> 6:21 33:15 39:17	<b>applicant's</b> 11:23 14:5 15:7,10,14,19 (6)	<b>area</b> 9:1 12:23 13:4 14:20,25 25:8 30:22 33:17,19,21,24 37:5,24 (13)
<b>aboveentitled</b> 44:22	<b>adhere</b> 6:2	<b>allowing</b> 7:8	<b>appear</b> 14:23	<b>around</b> 25:17 37:19 39:25
<b>access</b> 13:14	<b>adhered</b> 7:25 8:1	<b>almost</b> 34:17 41:2	<b>appearance</b> 31:25	<b>article</b> 9:10,18
<b>accessory</b> 6:2,23 7:2,9 8:25 9:2 13:9 14:21 15:2 19:17,21 20:13 23:5 24:5 34:3,14,19,24 35:5 (19)	<b>adjacent</b> 11:23 30:15	<b>along</b> 27:10	<b>applicant's</b> 11:23 14:5 15:7,10,14,19 (6)	<b>articles</b> 9:4
<b>accommodate</b> 31:18 37:2	<b>adjourn</b> 44:15	<b>already</b> 38:19 39:19 42:21	<b>applicants's</b> 14:12	<b>artist's</b> 14:3
	<b>adjourned</b> 44:20	<b>also</b> 1:15 12:16 33:12 35:8,24 40:13 (6)	<b>application</b> 1:5 4:6,23 5:2,6,7,11,17 7:22 8:7,13 14:24	<b>ask</b> 4:21 15:20 30:7
	<b>adjust</b> 42:14			

<b>asked</b> 42:23	<b>basement</b> 35:8,17	39:16 40:20 (4)	<b>bunch</b> 37:10	<b>care</b> 42:21
<b>asset</b> 22:6	<b>basically</b> 23:11	<b>blackout</b> 39:10	<b>burns</b> 1:5 4:7 16:7 17:22,24 18:2,6 24:6,16,19,22,25 25:2,2,13,18 26:24 27:3,15,18 42:10,11 (22)	<b>carried</b> 8:24
<b>associated</b> 13:14	<b>bateman</b> 4:8 5:4,13,14,23 6:6,20 11:23,24 30:10,16 39:22 (12)	<b>blind</b> 39:9	<b>burns'</b> 16:23 30:8	<b>carries</b> 44:20
<b>association</b> 42:2	<b>bearing</b> 17:1 18:15	<b>board</b> 1:1 3:9 4:4,19,21 7:23 11:20,21 12:6 13:5 15:20 17:18 21:2 43:8,15 44:4 (16)	<b>burnszaslocke</b> 6:9	<b>cart</b> 19:20
<b>assumed</b> 28:25	<b>became</b> 15:9	<b>board's</b> 14:7	<b>business</b> 4:3 6:19 7:4,12 13:7,7,20,23 14:19 15:2 24:13,14 25:4,5,7,16 26:4,9,23,25 27:13 28:20,22 29:9,10,17,19 30:13,19,22 33:24 34:25 35:25 36:11 38:10 40:1,2 (37)	<b>case</b> 29:7
<b>attach</b> 40:1,2	<b>because</b> 8:18 19:21 20:1 21:14 22:15 23:1,15 27:24 29:1 37:1 38:11,22 40:11 43:21 (14)	<b>boats</b> 26:16	<b>businesses</b> 6:21	<b>cause</b> 10:6,10 45:9
<b>attached</b> 7:14	<b>bedrooms</b> 39:11	<b>bob</b> 3:10	<b>c</b> 3:1 45:1,1	<b>causing</b> 42:12
<b>attack</b> 41:2	<b>before</b> 1:11 5:7 11:5 19:21,22,23 20:9,21 27:7,16 29:5 44:2 (12)	<b>border</b> 18:19	<b>call</b> 3:3,7 27:19 37:25 41:20 (5)	<b>cease</b> 15:22
<b>attanucci</b> 1:20 45:20	<b>behind</b> 12:4 25:19 27:25	<b>both</b> 13:1,23 15:1 25:5 35:14 42:18 (6)	<b>called</b> 39:4 40:10 41:12	<b>certain</b> 33:23
<b>attempting</b> 43:1	<b>being</b> 12:16 26:9 34:24 37:14 (4)	<b>boundary</b> 15:14,15	<b>came</b> 20:23 36:11 37:8 40:12 (4)	<b>certificate</b> 6:5,15 21:4 22:10 (4)
<b>attention</b> 26:20	<b>believe</b> 23:25 29:5 30:17 32:21 (4)	<b>box</b> 31:13,19 37:3,15 (4)	<b>can</b> 5:17 8:2 16:2 28:18 32:13,15,16,17 33:4 35:4,9 36:5 (12)	<b>certify</b> 45:3
<b>august</b> 16:25 43:18,25 44:3 (4)	<b>below</b> 7:21	<b>branch</b> 1:400	<b>can't</b> 18:22,23 36:1 38:14 39:5,7 (6)	<b>certifying</b> 1:25
<b>authorization</b> 1:25	<b>best</b> 38:24	<b>bridget</b> 5:12 11:14,22 15:24 (4)	<b>cannot</b> 4:14 8:1 33:23,24 (4)	<b>cetera</b> 31:1
<b>aware</b> 11:25 12:6 13:5 40:24 41:4 42:11 (6)	<b>better</b> 8:9 16:5 43:3	<b>build</b> 27:14 29:9,16 34:18 38:5 42:3 (6)		<b>chairman</b> 1:11,12 4:21
<b>aye</b> 44:18	<b>between</b> 21:1 27:23 36:10	<b>building</b> 1:8,16 5:22,24 6:16 19:15 21:13 23:2,4 24:3 26:6,9 28:19 29:9 30:23 31:2 33:23 34:1,5,22 (20)		<b>chandler</b> 5:14 11:11,13,13 28:1,3,7,7,9 30:2,3 32:2,3 36:13,17,23 37:4,18,21 38:7 39:14 41:1,12 42:13 (24)
<b>back</b> 23:17 37:8,21 38:15 41:18 (5)	<b>beyond</b> 10:8	<b>built</b> 19:22 21:4 38:9,12 (4)		<b>chandlers</b> 16:10
<b>baker</b> 1:13 3:17,18 25:1 (4)	<b>big</b> 29:13 38:17			<b>change</b> 10:1
<b>barn</b> 12:10 14:22				<b>changed</b> 36:10
<b>barton</b> 5:12 11:15,15,18,18,22 15:24 16:13,21 42:22 (10)				<b>changes</b> 21:25
<b>base</b> 18:23				<b>changing</b> 13:3
<b>based</b> 8:10 32:24 35:20				<b>chapter</b> 8:11 9:10,19 13:17,18 (5)

<b>character</b> 9:13 13:3 14:2	26:22	<b>construction</b> 9:24 25:7	<b>currently</b> 12:2,9 15:7	36:17,20 (6)
<b>chief</b> 3:19	<b>community</b> 1:15	<b>contained</b> 45:5	<b>customary</b> 9:25	<b>demonstrate</b> 7:22 8:16
<b>chris</b> 11:13 28:7 36:5	<b>company</b> 40:10,23 41:14	<b>continuing</b> 13:2	<b>customer</b> 13:11 40:18	<b>deny</b> 15:21 30:7
<b>christopher</b> 5:13 30:1 32:2 36:5 (4)	<b>compatible</b> 31:20	<b>contracting</b> 14:10	<b>cut</b> 37:11	<b>department</b> 41:18
<b>clarify</b> 33:22 34:3,6	<b>complaint</b> 6:17 26:20	<b>contractor's</b> 14:13	<b>d</b> 2:1 3:1	<b>detached</b> 5:22 6:16 19:15 20:13 26:5 35:19,22 (7)
<b>cleared</b> 40:12	<b>compliance</b> 19:9 21:4	<b>contrasting</b> 12:24 14:5	<b>daily</b> 36:21	<b>development</b> 1:15 8:7
<b>clearly</b> 13:9	<b>comply</b> 9:17 13:15	<b>contribute</b> 42:19	<b>damage</b> 42:12	<b>developments</b> 22:4
<b>client</b> 13:11	<b>concluded</b> 44:23	<b>copied</b> 15:25	<b>dana</b> 5:13 30:2 32:3	<b>devoted</b> 9:3 33:24
<b>close</b> 40:7	<b>condition</b> 31:25 39:23	<b>copy</b> 5:6	<b>dated</b> 7:15	<b>didn't</b> 17:4 24:7 27:1 38:11 40:5 (5)
<b>code</b> 1:16 7:1 13:6,25 14:19 (5)	<b>conditional</b> 1:4 4:6,23 5:3 7:10,19 12:1,25 30:9,12,20 31:21 32:1 (13)	<b>correct</b> 10:23,24 18:20 19:6,10,11 23:10 33:7,13 34:19 41:17 45:11 (12)	<b>daughters'</b> 39:10	<b>different</b> 22:15
<b>cokus</b> 3:20	<b>conditions</b> 10:18	<b>could</b> 18:23 21:16 26:14 29:17 34:2 37:15 38:15 39:15 (8)	<b>days</b> 43:16,24 44:5	<b>digging</b> 40:16
<b>come</b> 29:12 36:8 37:15,18 (4)	<b>conduct</b> 9:3	<b>county</b> 4:10 6:14 21:9 22:17 (4)	<b>deal</b> 28:16	<b>dimensions</b> 37:23
<b>coming</b> 12:14	<b>conducted</b> 13:8,18	<b>couple</b> 28:12 36:25	<b>december</b> 6:7,17 7:16	<b>direct</b> 15:21
<b>comment</b> 4:5 25:24 33:20	<b>conduit</b> 31:1	<b>court</b> 1:21	<b>decision</b> 18:24 43:16 44:5,21 (4)	<b>director</b> 1:15
<b>comments</b> 4:11 17:15 32:6 43:5 (4)	<b>connie</b> 25:11,12	<b>cpa</b> 25:10	<b>defer</b> 32:19	<b>discussions</b> 28:15
<b>commercial</b> 6:19,20 10:13,15 12:13,18 13:7 14:8,14 15:23 29:2 30:23 31:2,3, 10,12,13,16,18 37:2 39:19 40:19 (22)	<b>consecutive</b> 22:21	<b>created</b> 17:9	<b>defined</b> 13:20	<b>display</b> 9:6
<b>commission</b> 5:8 16:25 17:12 30:7 45:25 (5)	<b>consent</b> 7:14	<b>criteria</b> 7:21,24 8:1,15 10:18 30:18 (6)	<b>defines</b> 13:6	<b>displays</b> 9:9
<b>communicated</b>	<b>consolidation</b> 15:10	<b>current</b> 12:7	<b>definitely</b> 28:24	<b>district</b> 4:9 5:5 6:4,22 19:16 24:13 33:9,19 (8)
	<b>construct</b> 7:7 28:19	<b>cromer</b> 1:13 3:23,24	<b>definition</b> 13:19	<b>districts</b> 14:15
	<b>constructed</b> 6:14 20:22 21:1 23:6 (4)		<b>deliveries</b> 31:13,19 37:3	<b>disturbance</b> 9:16
			<b>delivery</b> 9:8 10:14 13:12 29:12	<b>doddata</b> 1:12 3:10,11



16:2,8,11,15,18 17:2,4,21,25 18:4,8 19:14 20:3,8,17 21:11,20 23:1,4,8,11,20,22 24:4,11,17 25:9,25 26:13,18,21 27:2,6 29:20 32:14,16,18,23 34:7,17 35:1,6,12,15,20 36:4,22 37:1,17,20 38:6 39:12 44:11,16 (57)	<b>dust</b> 9:15 <b>dwelling</b> 9:2,25 10:4 13:10 14:20 (5) <b>e</b> 2:1 3:1,1 45:1,1 (5) <b>each</b> 28:11 36:8 40:14 <b>earl</b> 1:5 4:7 25:2 28:10 29:7 30:8 38:20 39:22 (8) <b>earl's</b> 28:19 <b>easement</b> 40:14 41:7,16 42:2,5 (5) <b>easily</b> 39:16 <b>eastern</b> 15:6,15 <b>ed</b> 25:16 <b>edge</b> 15:6 39:3 <b>effects</b> 30:14 <b>electrical</b> 7:12 9:16 14:10 25:4 30:13 (5) <b>else</b> 43:11 <b>elsewhere</b> 14:11,16 <b>emissions</b> 12:22 <b>enclosed</b> 5:6 <b>encourage</b> 39:20 <b>energy</b> 29:2 <b>engineer</b> 41:20 <b>ensure</b> 12:6 <b>entered</b> 4:24 5:1	21:19 22:4 (4) <b>entire</b> 34:23 <b>equal</b> 8:9 14:23 <b>equipment</b> 10:3 12:16 14:9 <b>equitrans</b> 40:21 <b>erected</b> 12:11,18 <b>esquire</b> 1:13 <b>essential</b> 13:3 <b>essentially</b> 24:12 27:18 <b>et</b> 31:1 <b>even</b> 17:8 22:23 26:21 <b>evening</b> 8:16 <b>evenings</b> 12:15 <b>every</b> 29:12 36:11 <b>everybody</b> 3:4 <b>everything</b> 28:25 <b>evidence</b> 8:9 45:5 <b>exactly</b> 29:8 44:5 <b>example</b> 36:2 <b>excavating</b> 40:7 <b>except</b> 10:3 29:14 <b>excess</b> 13:14 <b>exhibit</b> 4:24,25 <b>exhibits</b> 2:5 <b>existing</b> 7:3,8	9:21 12:14 14:22 20:12 23:18 30:22 (8) <b>expand</b> 28:17 <b>expires</b> 45:25 <b>express</b> 7:20 <b>expressed</b> 8:18 39:1 <b>exterior</b> 9:9,11,11 30:25 39:2 (5) <b>external</b> 9:24 <b>f</b> 45:1 <b>facts</b> 8:8 <b>familiar</b> 25:10 <b>families</b> 25:6 <b>family</b> 20:12 <b>far</b> 27:23 39:21 <b>farm</b> 25:19 <b>father</b> 25:17 <b>favor</b> 44:17 <b>fayette</b> 1:1,7 4:3 <b>features</b> 9:24 <b>feet</b> 5:24 6:3 15:13 18:19,20 19:4,5 35:18,19,21 (10) <b>fell</b> 27:22 <b>few</b> 32:8 <b>filed</b> 1:5 4:7 24:2 <b>finally</b> 39:4	<b>financially</b> 42:20 <b>find</b> 8:14 14:14 <b>fine</b> 42:24 <b>fire</b> 10:1 <b>first</b> 11:17 19:24 25:10 36:11 38:8 43:18 (6) <b>fit</b> 13:19 <b>five</b> 17:5 <b>flag</b> 22:12 <b>flags</b> 26:12 <b>floor</b> 4:12 9:1 14:20,25 30:21 33:21 34:15 (7) <b>floors</b> 35:14 <b>florida</b> 28:23 37:8 <b>following</b> 4:6 7:20 30:18 <b>footage</b> 34:15 35:4,7,10,14 (5) <b>forbearance</b> 7:14 <b>foresight</b> 29:7 <b>forth</b> 14:18 <b>forward</b> 38:25 <b>four</b> 20:10 <b>frequent</b> 14:8 <b>full</b> 8:8 35:17 <b>fullblown</b> 24:12 <b>fully</b> 45:5
--	---	---	--	---

<p><b>functions</b> 13:13 14:1</p> <p><b>further</b> 7:9</p> <p><b>g</b> 3:1</p> <p><b>garage</b> 7:8 14:13 26:15 27:1 35:17 (5)</p> <p><b>garbage</b> 10:7</p> <p><b>gary</b> 22:9</p> <p><b>gas</b> 40:6,20,21 41:14 (4)</p> <p><b>gather</b> 14:9</p> <p><b>gentleman</b> 40:11</p> <p><b>gentleman's</b> 40:21</p> <p><b>get</b> 20:17 21:12 24:23 29:24 37:21 38:14,16 39:9 41:18 (9)</p> <p><b>glare</b> 9:16 31:3</p> <p><b>go</b> 5:17 8:20 17:11 22:6,9 (5)</p> <p><b>god's</b> 40:15</p> <p><b>goes</b> 23:17</p> <p><b>going</b> 4:12,15 16:24 28:23 38:1,4,21,23 41:3 42:25 (10)</p> <p><b>got</b> 29:14 37:19 38:22 39:4,6 (5)</p> <p><b>grant</b> 10:19,21</p> <p><b>granted</b> 31:21</p> <p><b>granting</b> 30:12 32:1</p>	<p><b>grass</b> 31:10 37:5,12 38:2,14 (5)</p> <p><b>gravel</b> 31:9,17,22 32:11,13,15,17 33:5,7 37:10,24 38:4 (12)</p> <p><b>green</b> 31:10 37:5,12 38:14 (4)</p> <p><b>gross</b> 9:1 14:20,25 30:21 (4)</p> <p><b>grounds</b> 8:8</p> <p><b>guess</b> 21:14 24:8 32:8</p> <p><b>h</b> 1:15</p> <p><b>half</b> 28:16 35:22</p> <p><b>hand</b> 28:22</p> <p><b>happen</b> 21:16</p> <p><b>happened</b> 21:10 23:5,12 24:1 27:19 39:8 (6)</p> <p><b>happening</b> 23:14 41:2</p> <p><b>hardship</b> 8:9</p> <p><b>hartwell</b> 1:15 4:20 5:2,20 8:23 10:23,25 11:3,10,17 16:6,9,12,17,20 17:3,10,23 18:9,13,21 19:6,11,17,20 20:5,19 21:17,21,24 22:3,14,21 23:16,21,24 25:22 26:19 29:23 30:6 32:8,15,17,19 33:1,3,8,13,18 34:9,12,21 35:24</p>	<p>41:12 42:4,7 43:12,20,24 44:2,7 (61)</p> <p><b>has</b> 7:18 10:19 12:20 14:7,12 15:16 17:8 18:15,22 19:5 25:4,18 30:13 33:14 36:10,18 43:15 44:4 (18)</p> <p><b>hasn't</b> 17:9</p> <p><b>he</b> 10:19 14:7 17:16,17,19 18:22 19:6 20:15 23:10 26:10 27:4,7,11,11 28:21 29:9,17 36:10,16 37:7,9 38:11,12 39:6 41:2,3,16,17 42:24,24 (30)</p> <p><b>he'd</b> 35:21 42:23</p> <p><b>he's</b> 25:5</p> <p><b>heard</b> 28:14</p> <p><b>hearing</b> 1:1 4:5 12:6 17:18 43:16 44:15 45:9 (7)</p> <p><b>hearing's</b> 44:20</p> <p><b>heart</b> 41:2</p> <p><b>heat</b> 9:16</p> <p><b>help</b> 26:2 42:19</p> <p><b>her</b> 25:10</p> <p><b>here</b> 3:11,13,15,18,24 4:1 16:12 18:18 26:1 35:9 38:18 39:5,21 (13)</p> <p><b>hereby</b> 45:3</p> <p><b>highpressure</b></p>	<p>40:6,17,20</p> <p><b>him</b> 28:13 39:8 41:14,15 42:15,23 (6)</p> <p><b>his</b> 12:2 15:15,23 17:16 20:1 28:20,22 29:8,9,10,11,16,17 30:13 31:18 41:17 (16)</p> <p><b>history</b> 5:16</p> <p><b>holding</b> 4:4</p> <p><b>home</b> 4:8 5:3 6:24 7:7,11,17 8:23 9:3,12 10:12,22 11:1 13:19,21 14:3,18 15:11,17 20:2,3,12 25:5,6 26:16 30:9,19,24 31:6 35:8,10 36:2 38:1 40:3 (33)</p> <p><b>homebased</b> 12:1 13:7,20,22 (4)</p> <p><b>horse</b> 19:21</p> <p><b>house</b> 14:23 17:12,13 19:22 26:25 27:12,13,14,23 29:17,18 34:5,8,9,11,13,18 35:2,18 36:1 38:5,9,22 40:8 (24)</p> <p><b>household</b> 10:5</p> <p><b>how</b> 20:17 23:13 42:1</p> <p><b>however</b> 9:7</p> <p><b>hurt</b> 29:5</p> <p><b>i'd</b> 32:19</p>	<p><b>i'll</b> 11:6 44:14,16</p> <p><b>i'm</b> 21:15 23:12 24:22 25:9 36:24 38:13 39:23 (7)</p> <p><b>i've</b> 29:4 38:19 42:21</p> <p><b>ice</b> 29:14</p> <p><b>id</b> 4:10</p> <p><b>identification</b> 5:1</p> <p><b>illuminate</b> 12:18</p> <p><b>illuminated</b> 31:4</p> <p><b>illumination</b> 31:22</p> <p><b>immediate</b> 10:11</p> <p><b>impact</b> 10:11 13:2 31:8</p> <p><b>included</b> 14:7,24 20:1</p> <p><b>includes</b> 35:8</p> <p><b>including</b> 31:5</p> <p><b>increase</b> 10:6</p> <p><b>increased</b> 12:21</p> <p><b>indicated</b> 26:11</p> <p><b>indicates</b> 15:15</p> <p><b>indicating</b> 14:24 16:13,22 20:6 (4)</p> <p><b>indication</b> 9:12 26:7</p> <p><b>industrial</b> 14:15</p> <p><b>inform</b> 24:4</p> <p><b>information</b> 4:18</p>
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7:13 41:24 <b>informed</b> 41:14,21 <b>inside</b> 15:17 <b>installation</b> 31:17 <b>installed</b> 31:4 <b>instead</b> 31:10 <b>instruct</b> 15:22 <b>intended</b> 38:8 <b>intensify</b> 9:21 <b>intent</b> 12:3 13:22 <b>intention</b> 38:20 <b>interested</b> 40:22 <b>interests</b> 39:1 <b>interior</b> 34:1 <b>internal</b> 9:23  <b>into</b> 4:24 5:1 6:8 11:6 20:10 21:19 22:4,6,9 27:22 29:2,3,24 41:18 (14)  <b>invest</b> 29:1  <b>invite</b> 39:21,24  <b>involve</b> 10:13  <b>involved</b> 8:11 39:4  <b>involves</b> 13:10  <b>is</b> 1:24 4:4,12 5:2,6,16 6:3,20 8:10 9:22 10:8,17,21 11:3,4,18,25	12:2,6,6,9 13:1,3,5,9,25 14:7 15:7 16:6,9,13,16,24 17:8,12,16,22,25 18:4,19,20,22,25 19:15,20 20:10 21:11,15 22:8 23:13,15,18 24:1,14 25:10 26:2,3 27:24 30:1,6,23 31:21 32:14 33:15 34:4,19 35:5,10,11,18,19 37:15,25,25 38:9,25 39:15 40:5,22 41:17,21,22,22 42:1,4 45:9 (86)  <b>isn't</b> 32:23  <b>issue</b> 21:6 39:15 43:5  <b>issued</b> 5:21 6:5,15 7:1 19:25 20:1,14 21:5,8 22:24 26:4,5 (12)  <b>it'll</b> 38:16  <b>j</b> 32:3  <b>james</b> 1:11,12  <b>jeff</b> 25:15  <b>jim</b> 3:14  <b>jobs</b> 14:11  <b>john</b> 5:12 11:15,22 15:24 (4)  <b>jordan</b> 1:14 3:9,1 2,14,16,19,22,25 4:1 (9)  <b>jr</b> 3:12  <b>july</b> 6:4 43:21,22	44:7,8,9,21 (7)  <b>june</b> 5:8  <b>just</b> 16:4 17:4,6 20:22 24:8 26:1 27:21 28:9 29:11 32:8,10 33:21,23 34:3 36:5 37:5,12 38:12 39:25 40:11 (20)  <b>keep</b> 29:18  <b>kind</b> 19:20 26:1 37:22  <b>know</b> 11:10 17:24 21:15,15 26:16 36:14,18,19 37:6,8,9,10,16,24, 25 38:4,13,24,25 39:5,6,9,9,10 41:14 (25)  <b>knowledge</b> 28:18  <b>known</b> 30:10  <b>ladders</b> 30:25  <b>lagamba</b> 1:22  <b>land</b> 15:6,8 16:23 22:4 37:9,9,11 41:17 (8)  <b>land's</b> 39:18  <b>landscaping</b> 31:24 42:20  <b>large</b> 12:10,10,17 31:5,9,12,17,19 32:11 35:2 37:2 (11)  <b>larger</b> 34:18  <b>last</b> 12:11  <b>leah</b> 1:20 45:20	<b>least</b> 28:15 38:16  <b>less</b> 25:3  <b>lessons</b> 24:15  <b>let's</b> 5:19 35:11  <b>letter</b> 11:17 18:10 25:21 29:22,24 30:1,4,6 32:10 36:6,14 39:1 (12)  <b>letters</b> 11:6  <b>levels</b> 12:21  <b>liens</b> 21:13  <b>life</b> 30:15  <b>light</b> 12:22 31:4 39:16  <b>lighting</b> 31:17 39:2,14  <b>lights</b> 12:18 39:8 42:12  <b>like</b> 4:18 5:18 8:20 14:2 23:14,15 25:21 27:20 33:9,19 37:5 39:19 42:23 (13)  <b>limited</b> 34:4  <b>linda</b> 30:8 38:20 39:22  <b>line</b> 19:4 40:6,17,18,20 (5)  <b>listed</b> 7:21,24  <b>literally</b> 22:16  <b>little</b> 26:3  <b>live</b> 11:22 16:21	31:9 38:23 (4)  <b>lived</b> 27:3,4  <b>lives</b> 17:24  <b>living</b> 27:12 30:15 38:21  <b>located</b> 6:23 42:4  <b>look</b> 21:12 39:24,25 41:18 42:23 (5)  <b>looking</b> 40:1,2  <b>looks</b> 39:19  <b>loss</b> 38:13  <b>lot</b> 6:20,23 7:8 10:11 15:14,16 28:17 31:8,9,14,18,23,24 32:11,12,25 33:4,5,10,14,14 36:6,12 37:24 39:16,20,20,24 40:1,2 (30)  <b>lots</b> 6:9 32:11  <b>lutz</b> 25:6,12  <b>m</b> 1:13,20 45:20  <b>machinery</b> 12:13  <b>made</b> 21:25  <b>main</b> 39:15  <b>maintaining</b> 7:2  <b>make</b> 17:6 25:23 40:15 43:3,16,19 44:5,14,20 (9)  <b>makes</b> 31:13  <b>making</b> 20:16
---	---	---	--	--

<b>man</b> 41:13	<b>meantime</b> 20:21 21:1	8:5,12	10:8	26:21 38:8 41:19 (4)
<b>manager</b> 1:13 3:16	<b>meet</b> 17:16	<b>modular</b> 14:23 15:11,17	<b>municipalities</b> 13:25	<b>new</b> 4:3 7:7 15:13 21:23 (4)
<b>mangan</b> 1:12 3:12,13 44:14 (4)	<b>meeting</b> 3:4 43:18,18,21,22,25 44:3,9,10 (9)	<b>money</b> 29:2	<b>must</b> 6:2 7:22 35:25	<b>next</b> 8:14 28:11 29:10 31:9 44:10 (5)
<b>many</b> 38:19	<b>members</b> 4:21	<b>months</b> 28:12	<b>my</b> 18:2 26:25 27:1 28:17,18,21 30:14 36:14 37:23 38:25 39:10,21 40:13 43:2 (14)	<b>nft</b> 31:7
<b>marked</b> 2:5 4:25	<b>memo</b> 5:15	<b>more</b> 7:13 8:25 12:12 18:9,20 26:3 30:21 32:25 33:25 (9)	<b>n</b> 2:1 3:1	<b>niederriter</b> 25:4,18
<b>marlyn</b> 1:14 3:8 4:1,2 (4)	<b>memorandum</b> 4:22	<b>morning</b> 29:13	<b>name</b> 12:25 24:21 25:1,10 28:5 40:21 (6)	<b>night</b> 12:19 39:2
<b>mastermind</b> 27:20	<b>mention</b> 11:5 40:5	<b>morosetti</b> 1:11 3:3,7,14,15 4:2,17 5:19 8:22 10:21,24 11:1,8,12,16 18:11,14 19:1,8,12,19 21:22 22:2 24:20,23 25:12,15,20 27:9,16 28:1,5,8 29:21 32:4 33:6,11,16 34:11 35:23 36:16 39:13 40:24 41:4,8,10 42:1,6,9 43:4,7,10,13,15,23 44:1,4,8,12,17,19 (61)	<b>names</b> 11:21	<b>no</b> 3:21 4:10,25 8:12,25 9:6 10:2 13:11 18:4,15 22:12 24:6 26:7,12 27:3,15,18 30:21 32:22 34:8,9,11 38:18,20 39:16 43:6,9,12,14 (29)
<b>material</b> 9:11 30:25	<b>mentioned</b> 36:15 39:7	<b>merchandise</b> 9:6,7	<b>naturally</b> 42:14	<b>noimpact</b> 13:6,20,22
<b>materials</b> 10:2,14 14:10 36:9 (4)	<b>merchandise</b> 9:6,7	<b>met</b> 7:25 8:1 30:20	<b>nature</b> 12:7	<b>noise</b> 9:15 12:21
<b>matter</b> 21:14 44:22	<b>metal</b> 12:10 14:22	<b>metal</b> 12:10 14:22	<b>near</b> 14:23	<b>noncommercial</b> 29:3
<b>matters</b> 33:6	<b>met</b> 7:25 8:1 30:20	<b>michael</b> 1:13,16 3:17	<b>necessary</b> 8:12	<b>noimpact</b> 13:6,20,22
<b>maxwell</b> 1:302	<b>metal</b> 12:10 14:22	<b>michele</b> 1:13 3:22	<b>need</b> 8:16 17:13,17 34:18 44:12 (5)	<b>noise</b> 9:15 12:21
<b>may</b> 6:11,23 9:7 25:23 (4)	<b>might</b> 14:14	<b>might</b> 14:14	<b>needed</b> 6:1	<b>noncommercial</b> 29:3
<b>maybe</b> 25:16 26:2 36:23 41:16 (4)	<b>mike</b> 32:20 43:13	<b>might</b> 14:14	<b>needless</b> 12:24	<b>noncompliant</b> 20:16
<b>mcdermott</b> 15:25	<b>mike</b> 32:20 43:13	<b>motor</b> 26:16	<b>negative</b> 10:10 30:14 31:8	<b>nor</b> 33:4
<b>me</b> 8:20 27:10 28:13 29:5 39:3 41:13,16 45:7 (8)	<b>mile</b> 25:3	<b>move</b> 28:23	<b>neighborhood</b> 9:23 10:9,12 14:2 (4)	<b>normal</b> 9:22 10:8
<b>meadow</b> 37:6,12	<b>miles</b> 40:19	<b>moved</b> 28:11 36:19	<b>neighboring</b> 5:11 11:7	<b>normally</b> 10:4 13:14
<b>mean</b> 22:6 23:11 24:11,13,16 25:8 27:19 28:3 37:4,11 38:4,18 (12)	<b>minimum</b> 7:20,24,25 8:12,15 30:18 (6)	<b>ms</b> 3:9,12,14,16,1 9,22,24,25 11:14,18 16:14,21 (12)	<b>neighbors</b> 28:4,10 38:19 43:2 (4)	<b>north</b> 1:1,7,400 4:3 (4)
<b>means</b> 34:2	<b>modification</b> 8:3,12	<b>much</b> 19:19	<b>never</b> 23:12	<b>notary</b> 45:14,20
	<b>modifications</b>	<b>municipal</b> 1:8		<b>notes</b> 45:7
				<b>nothing</b> 26:11

<p>39:8</p> <p><b>notice</b> 6:25</p> <p><b>november</b> 5:20 22:24</p> <p><b>now</b> 4:13 18:20 20:10 21:21 24:12 31:8 34:10 36:12 38:10,21 (10)</p> <p><b>number</b> 34:16</p> <p><b>numerous</b> 12:12</p> <p><b>o</b> 3:1</p> <p><b>o'clock</b> 3:2 44:23</p> <p><b>o'hara</b> 5:12 11:14,14,18,22 15:25 16:14,21 (8)</p> <p><b>o'haras</b> 16:20</p> <p><b>oakdale</b> 1:9 11:19</p> <p><b>objectionable</b> 9:15 31:3</p> <p><b>observe</b> 36:25</p> <p><b>observed</b> 12:12,16,17</p> <p><b>occupancy</b> 6:5,15 22:11</p> <p><b>occupation</b> 4:8 5:4 7:11,18 8:24 9:4,12 10:12,22 11:3 12:2 13:18,21 14:18 30:9,19 36:3 (17)</p> <p><b>occupied</b> 12:9</p> <p><b>occupy</b> 7:7</p> <p><b>october</b> 45:25</p>	<p><b>odors</b> 9:16</p> <p><b>off</b> 9:8 29:6 36:24</p> <p><b>offer</b> 27:25</p> <p><b>office</b> 9:12 14:3 16:1</p> <p><b>officer</b> 1:16 7:1 15:21</p> <p><b>offset</b> 40:9</p> <p><b>once</b> 15:22</p> <p><b>one</b> 4:15 10:16 14:14 16:15 17:7 18:9,12 20:5,11 21:7 22:11 25:23 29:11 36:8 37:7 (15)</p> <p><b>ongoing</b> 36:18</p> <p><b>only</b> 4:15 5:25 12:3 17:19 25:9 33:10 (6)</p> <p><b>onsite</b> 13:2</p> <p><b>oops</b> 38:11</p> <p><b>opened</b> 36:11</p> <p><b>operate</b> 30:13 36:2</p> <p><b>operating</b> 7:4</p> <p><b>operation</b> 7:12 14:14</p> <p><b>operator</b> 35:25</p> <p><b>opposition</b> 15:18</p> <p><b>order</b> 3:4 7:14 31:7 34:20 (4)</p> <p><b>ordinance</b> 7:17 8:19 13:24 21:23 (4)</p>	<p><b>other</b> 9:9 10:7 18:12 25:21 28:12 29:22,24 30:4 32:6 35:9 43:5 (11)</p> <p><b>otherwise</b> 12:22 13:15</p> <p><b>our</b> 11:21 12:3 15:9 21:11 26:20 30:15 31:5,5 40:5 44:21 (10)</p> <p><b>out</b> 16:3 26:9,25,25 28:22 35:24 36:2 37:9,22 38:2,19,20,21 41:22 (14)</p> <p><b>outside</b> 31:1 42:5</p> <p><b>outstanding</b> 21:13</p> <p><b>over</b> 16:12 28:22 39:3 40:19 (4)</p> <p><b>overview</b> 5:16</p> <p><b>own</b> 40:5</p> <p><b>owned</b> 16:6,9,13</p> <p><b>owners</b> 5:12</p> <p><b>owns</b> 40:23</p> <p><b>p</b> 3:1</p> <p><b>pa</b> 1:9,23 11:19</p> <p><b>packet</b> 5:6</p> <p><b>page</b> 5:15 8:14</p> <p><b>parcel</b> 4:10 15:7,9 16:6,22,23 17:7,24 20:11 21:7 22:12,15 (12)</p> <p><b>parcelbased</b> 22:7</p>	<p><b>parcels</b> 16:3,18 17:6 20:10 22:18 (5)</p> <p><b>parked</b> 10:16 31:14</p> <p><b>parking</b> 31:9,18,22 32:11,11,25 33:4,5,14,14 37:24 39:16 (12)</p> <p><b>part</b> 6:9 7:21 15:9 21:11,22,25 (6)</p> <p><b>particular</b> 31:16 38:25</p> <p><b>particularly</b> 39:2</p> <p><b>parties</b> 42:19</p> <p><b>pass</b> 21:1</p> <p><b>past</b> 36:24 42:22</p> <p><b>patient</b> 13:11</p> <p><b>paved</b> 33:7,12,14</p> <p><b>pay</b> 29:6</p> <p><b>pedestrian</b> 9:21 13:12</p> <p><b>pennsylvania</b> 13:24</p> <p><b>people</b> 11:8</p> <p><b>per</b> 7:17</p> <p><b>percent</b> 9:1 14:21,25 15:1 33:21,25 34:2,4,16,18 (10)</p> <p><b>percentage</b> 34:14</p> <p><b>perfect</b> 23:15</p>	<p><b>performance</b> 9:18</p> <p><b>performed</b> 14:11</p> <p><b>period</b> 42:17</p> <p><b>permanent</b> 17:22 18:1,2</p> <p><b>permit</b> 5:21,24,25 13:25 19:25 20:14,20,22 21:5,7,8 22:8,24 24:8 26:4,10,15 35:9 (18)</p> <p><b>permits</b> 21:13 39:6</p> <p><b>permitted</b> 7:19 9:10,14 10:16,17 20:13 32:12,12 33:4,7,8 (11)</p> <p><b>person</b> 4:15 23:17 41:25</p> <p><b>piano</b> 24:14</p> <p><b>pick</b> 36:8</p> <p><b>pickup</b> 13:12</p> <p><b>pictures</b> 32:24</p> <p><b>pieces</b> 27:22</p> <p><b>pike</b> 18:7</p> <p><b>pine</b> 42:22</p> <p><b>pipeline</b> 40:9,10,12,14,22 (5)</p> <p><b>pittsburgh</b> 1:23</p> <p><b>place</b> 27:22</p> <p><b>plan</b> 6:10,10,12,13 14:24 15:10,15</p>
---	--	---	---	---

<p>17:13,19 20:20,23,25 21:3 23:18 24:2,3 27:11,21 29:8,16 35:5 41:15,22,23 42:2,22 (26)</p> <p><b>planning</b> 5:8 13:25 16:25 17:11 27:10 28:24 29:8 30:7 (8)</p> <p><b>plans</b> 15:11 23:24 28:19 35:1 (4)</p> <p><b>plant</b> 38:15 42:25</p> <p><b>planted</b> 42:21</p> <p><b>please</b> 3:4,7 4:13,19 7:13 24:20 28:6 (7)</p> <p><b>pledge</b> 3:5,6</p> <p><b>pm</b> 1:22 3:2 44:23</p> <p><b>point</b> 16:3 24:19 28:9 35:24 (4)</p> <p><b>points</b> 32:9</p> <p><b>poles</b> 12:18</p> <p><b>police</b> 3:19</p> <p><b>pollution</b> 12:22</p> <p><b>portion</b> 12:5 31:5</p> <p><b>possibly</b> 28:16</p> <p><b>post</b> 31:4,6</p> <p><b>poured</b> 37:10</p> <p><b>power</b> 10:3</p> <p><b>premises</b> 9:5,5,7,8,9 10:15,16,17 13:13</p>	<p>36:1 (10)</p> <p><b>prepare</b> 14:10</p> <p><b>prepared</b> 7:15</p> <p><b>present</b> 1:15 11:9</p> <p><b>presumably</b> 14:9</p> <p><b>prevent</b> 23:13</p> <p><b>principal</b> 6:22,24 7:3 8:25 9:2,14 14:20 19:18 (8)</p> <p><b>prior</b> 6:13 43:25</p> <p><b>probably</b> 38:23 43:17</p> <p><b>problem</b> 29:11,13</p> <p><b>proceed</b> 19:7</p> <p><b>proceedings</b> 1:18 45:3</p> <p><b>process</b> 8:3 15:4</p> <p><b>processed</b> 21:9 22:16</p> <p><b>produced</b> 9:4,17</p> <p><b>professional</b> 1:21</p> <p><b>prohibited</b> 1:24</p> <p><b>proper</b> 38:12</p> <p><b>property</b> 5:12 6:8 7:2 11:24 12:2,9,17,19 14:6 15:23 18:16,17 19:3,4,9,24 20:1 23:6 27:12,24,25 28:15,20 30:10,14,15 31:5 39:21 40:7,13 (30)</p> <p><b>proposed</b> 12:7</p>	<p>14:12,22 15:11,17,19 16:22 17:20 18:25 23:19 30:24 34:12 35:10 (13)</p> <p><b>protocol</b> 21:12</p> <p><b>provided</b> 13:23</p> <p><b>provision</b> 8:10</p> <p><b>provisions</b> 8:11</p> <p><b>public</b> 1:1 4:5,5 10:7 12:5 44:15 45:20 (7)</p> <p><b>purchase</b> 18:16,17 19:3</p> <p><b>purpose</b> 38:9</p> <p><b>purposes</b> 10:5 12:3 13:17 15:3 (4)</p> <p><b>put</b> 26:15 38:1,3,22 (4)</p> <p><b>putting</b> 29:2,4</p> <p><b>quality</b> 30:14</p> <p><b>quarter</b> 25:3 38:3</p> <p><b>question</b> 18:12 19:15</p> <p><b>quickly</b> 8:22 11:6</p> <p><b>quiet</b> 12:22</p> <p><b>r</b> 1:12 3:1 32:2 45:1 (4)</p> <p><b>r2</b> 4:8 5:4 6:21</p> <p><b>raised</b> 22:12</p> <p><b>ran</b> 42:22</p>	<p><b>ranch</b> 35:17</p> <p><b>rating</b> 10:1</p> <p><b>re</b> 1:3</p> <p><b>read</b> 11:6 12:5 25:21 29:22,23 32:10 (6)</p> <p><b>ready</b> 44:6</p> <p><b>realize</b> 24:7,8 27:1</p> <p><b>realized</b> 42:15</p> <p><b>reason</b> 37:14</p> <p><b>reasons</b> 15:18</p> <p><b>receive</b> 5:8,10</p> <p><b>received</b> 2:5 6:18</p> <p><b>recent</b> 14:6</p> <p><b>recently</b> 12:12</p> <p><b>recited</b> 3:6</p> <p><b>recommendation</b> 5:9</p> <p><b>record</b> 4:24 5:1 11:6 29:25 (4)</p> <p><b>recorded</b> 21:3</p> <p><b>recording</b> 6:13</p> <p><b>red</b> 22:12 26:12</p> <p><b>refer</b> 4:22 5:15</p> <p><b>refers</b> 32:10</p> <p><b>regarding</b> 4:22 5:11 6:18</p> <p><b>regular</b> 10:14 31:13</p>	<p><b>relevant</b> 12:5</p> <p><b>relief</b> 8:2</p> <p><b>remedied</b> 39:16</p> <p><b>remedy</b> 7:6 43:2</p> <p><b>remiss</b> 40:4</p> <p><b>removal</b> 13:13</p> <p><b>removed</b> 42:16,16</p> <p><b>rent</b> 36:1</p> <p><b>repeat</b> 36:13</p> <p><b>reported</b> 1:19</p> <p><b>reporter</b> 1:21</p> <p><b>reporting</b> 1:22</p> <p><b>represented</b> 41:21,23</p> <p><b>reproduction</b> 1:24</p> <p><b>request</b> 8:2,10 31:22</p> <p><b>requested</b> 8:13</p> <p><b>requests</b> 8:5,7</p> <p><b>require</b> 9:23</p> <p><b>required</b> 5:25</p> <p><b>requirement</b> 6:3 15:16 31:23</p> <p><b>requirements</b> 13:16 14:17 17:17</p> <p><b>reside</b> 35:25</p> <p><b>residence</b> 17:22 18:1,2</p>
--	---	--	--	--

<p><b>residences</b> 9:22 10:9</p> <p><b>residential</b> 4:9 5:5,22 6:16 9:13 10:4 12:3,23 13:10,15 14:1 19:16 24:13 26:5 31:20,25 33:9,16,18 40:1 (20)</p> <p><b>residentiallyzone d</b> 30:10</p> <p><b>residents</b> 11:7</p> <p><b>respectfully</b> 15:20,24 32:2</p> <p><b>responded</b> 17:14</p> <p><b>response</b> 3:21 43:6,9</p> <p><b>restorative</b> 31:24</p> <p><b>restrict</b> 14:19</p> <p><b>restricted</b> 31:23</p> <p><b>restrictions</b> 32:20</p> <p><b>result</b> 8:9 15:10</p> <p><b>resupply</b> 31:15</p> <p><b>retrofitted</b> 38:10</p> <p><b>return</b> 31:14,24</p> <p><b>right</b> 4:13 18:11,19 21:24 22:2,13 24:10,12 25:7,13,19,19 33:1 34:10 35:23 37:20 39:5,7 44:1 (19)</p> <p><b>rip</b> 38:2</p> <p><b>risk</b> 29:4</p>	<p><b>risks</b> 29:5</p> <p><b>road</b> 1:400 4:8 5:4,13,14,23 6:6,20 11:19,23,24 25:7 30:11,16 39:22 (15)</p> <p><b>robert</b> 1:12</p> <p><b>roll</b> 3:7</p> <p><b>room</b> 14:4</p> <p><b>roughly</b> 14:25 35:3</p> <p><b>rules</b> 8:18</p> <p><b>run</b> 26:9 28:21 35:9</p> <p><b>running</b> 25:5 26:25 29:10,19 (4)</p> <p><b>runs</b> 40:6,12,18</p> <p><b>s</b> 3:1</p> <p><b>safety</b> 10:7 40:5</p> <p><b>said</b> 19:2 36:7 37:2 39:5,7 41:3 42:24 (7)</p> <p><b>sake</b> 40:15</p> <p><b>sale</b> 9:6</p> <p><b>same</b> 27:19 30:23 35:4 45:11 (4)</p> <p><b>satisfaction</b> 7:23</p> <p><b>saville</b> 1:16 7:1 19:23 20:4,7,9 22:13,19,23 23:3,7,10 24:1 25:23 26:1,14 27:4,7 32:22 33:2 34:23 35:3,7,13,16 41:6,9,11 43:14 (29)</p>	<p><b>saw</b> 41:10</p> <p><b>say</b> 12:24 28:2,18 33:22 39:25 (5)</p> <p><b>says</b> 18:18 33:23 36:6</p> <p><b>sealed</b> 23:17</p> <p><b>second</b> 17:5 39:18 43:18,22 44:16 (5)</p> <p><b>secondary</b> 13:9</p> <p><b>secretary</b> 1:14 3:25</p> <p><b>section</b> 8:4 13:5,16 14:18 (4)</p> <p><b>see</b> 7:13 39:25</p> <p><b>seeking</b> 12:1 13:1 14:7</p> <p><b>seems</b> 27:10</p> <p><b>sell</b> 19:9 27:12,13 29:18 (4)</p> <p><b>selling</b> 27:23</p> <p><b>separate</b> 6:9 22:18</p> <p><b>serious</b> 30:13</p> <p><b>service</b> 22:7 40:18</p> <p><b>services</b> 1:22 10:8</p> <p><b>set</b> 14:17</p> <p><b>setback</b> 6:3 15:16 17:16</p> <p><b>setting</b> 31:20</p> <p><b>seven</b> 28:11,12</p>	<p>36:19</p> <p><b>several</b> 41:11</p> <p><b>sewage</b> 10:7</p> <p><b>sewing</b> 14:4</p> <p><b>shades</b> 39:10</p> <p><b>shall</b> 7:18 8:6,6,8,24 9:3,5,6, 14,17,17,20,23 10:2,5,10,12,15 13:20 (19)</p> <p><b>shaved</b> 37:11</p> <p><b>shed</b> 11:2</p> <p><b>should</b> 23:12 33:11 39:17</p> <p><b>show</b> 23:18 24:3</p> <p><b>showing</b> 22:17</p> <p><b>shown</b> 15:11 17:13 20:20 42:5 (4)</p> <p><b>shows</b> 36:20 40:8</p> <p><b>sic</b> 11:19</p> <p><b>side</b> 15:16 40:14</p> <p><b>signature</b> 45:16</p> <p><b>significantly</b> 9:20 12:20</p> <p><b>signs</b> 9:9</p> <p><b>similar</b> 10:3</p> <p><b>since</b> 28:10 36:18,18,19 39:22 42:18,21 (7)</p> <p><b>single</b> 12:10,10 20:12 33:10 35:16 (5)</p>	<p><b>sir</b> 10:25 18:13 24:21 25:1 27:15 (5)</p> <p><b>sit</b> 15:12,17</p> <p><b>site</b> 31:15</p> <p><b>sites</b> 14:11</p> <p><b>situation</b> 7:6 26:2 43:2</p> <p><b>size</b> 5:23 14:23 30:24 32:20 33:23 34:5 35:4 37:15 (8)</p> <p><b>smoke</b> 9:15</p> <p><b>snow</b> 29:15</p> <p><b>so</b> 5:20 7:17 8:23 11:17 16:4,20 17:7 19:8,19,20,24 20:9,11,12 21:6,17,18 22:8 23:3,12 24:1,11 25:17 26:11,21 28:18,24 29:17 30:4 34:17 35:18,20,21 36:1,24 37:14,15,22 38:18,24 40:15 43:1,17 44:4 (44)</p> <p><b>sold</b> 9:5 23:6,9 27:9 (4)</p> <p><b>solicitor</b> 1:14 3:22 7:15</p> <p><b>solicitor's</b> 16:1</p> <p><b>some</b> 11:7 21:25 24:8 38:15 41:24 (5)</p> <p><b>somebody</b> 24:14</p> <p><b>someone</b> 38:1</p>
---	---	---	--	--

<p><b>something</b> 18:24 23:14 27:21 28:2 36:10 39:5,7 (7)</p> <p><b>sometime</b> 43:17</p> <p><b>son</b> 28:22 29:12</p> <p><b>sorry</b> 24:22</p> <p><b>sort</b> 17:15</p> <p><b>space</b> 30:22 34:2</p> <p><b>speak</b> 4:13,14,15 29:24 41:13 (5)</p> <p><b>specifically</b> 30:17 36:14</p> <p><b>specified</b> 8:3</p> <p><b>spoke</b> 42:13,18</p> <p><b>square</b> 5:24 34:15 35:4,7,10,13 ,18,19,21 (9)</p> <p><b>staff</b> 4:22 21:6</p> <p><b>stand</b> 3:4 4:13 24:23</p> <p><b>standalone</b> 6:22</p> <p><b>standards</b> 7:20,24 8:1,15 9:18 30:18 (6)</p> <p><b>start</b> 27:13</p> <p><b>started</b> 36:19</p> <p><b>state</b> 4:18 8:8 19:13 24:20 28:5 (5)</p> <p><b>stated</b> 18:14 19:5</p> <p><b>stenographic</b> 45:7</p> <p><b>steubenville</b> 18:7</p>	<p><b>still</b> 20:25 21:7 22:11 36:2 (4)</p> <p><b>storage</b> 5:22 6:16 9:11 11:2 19:15 26:5 30:25 (7)</p> <p><b>store</b> 26:16</p> <p><b>stored</b> 9:8 12:16 31:1</p> <p><b>storm</b> 23:15</p> <p><b>street</b> 1:302 25:14,19</p> <p><b>strip</b> 15:6,8 16:23</p> <p><b>stripped</b> 37:7,9 39:19</p> <p><b>structure</b> 5:24 6:2,6,14,19,24 7:2,3,5,9 8:25 9:14 10:1 12:11,14 14:22 15:2 18:18 19:18,22 20:13,19,25 21:3 23:5 24:5 29:3,17 34:4,14,19 35:5,19,22 (34)</p> <p><b>structure's</b> 34:24</p> <p><b>structures</b> 6:23 9:2 14:21 15:1 23:19 (5)</p> <p><b>stuck</b> 29:14</p> <p><b>studio</b> 14:3</p> <p><b>stuff</b> 36:9</p> <p><b>subdivide</b> 6:8 27:11 28:20 29:18 (4)</p> <p><b>subdivided</b> 17:9 19:24 20:10,15 23:7,8 27:8,17 (8)</p>	<p><b>subdividing</b> 28:14</p> <p><b>subdivision</b> 6:10,10,12 20:18,20,23,24 21:9,10,12 22:15,25 23:18 24:2 27:24 (15)</p> <p><b>subdivisions</b> 21:18 22:3</p> <p><b>subject</b> 7:19 15:7</p> <p><b>submitted</b> 15:12,14 42:8</p> <p><b>submitting</b> 12:4</p> <p><b>subsection</b> 13:17</p> <p><b>subsequently</b> 31:6</p> <p><b>suburban</b> 4:9 5:5</p> <p><b>such</b> 6:25</p> <p><b>supervisors</b> 1:1 3:9 4:4 7:23 11:20,21 15:20 21:2 (8)</p> <p><b>supposed</b> 23:18 41:17,22</p> <p><b>sure</b> 17:6 25:22 36:24 39:23 40:15 (5)</p> <p><b>survey</b> 41:9</p> <p><b>sworn</b> 4:13,14,16 24:24,25 (5)</p> <p><b>system</b> 21:7</p> <p><b>t</b> 45:1,1</p> <p><b>take</b> 4:5,11 35:11 38:21 39:24 (5)</p>	<p><b>taken</b> 29:5 31:6 38:19,20 45:7 (5)</p> <p><b>taking</b> 38:13</p> <p><b>talked</b> 40:11</p> <p><b>talking</b> 16:3</p> <p><b>teaching</b> 24:14</p> <p><b>ted</b> 25:15</p> <p><b>tell</b> 35:4</p> <p><b>ten</b> 6:3</p> <p><b>tenfoot</b> 40:9</p> <p><b>testimony</b> 5:10 12:4 36:7</p> <p><b>than</b> 8:25 9:9 18:20 25:3 30:21 33:25 34:19 (7)</p> <p><b>thank</b> 4:2,20 19:13 28:8 29:20 32:4 44:21 (7)</p> <p><b>their</b> 25:16 26:16 29:15 39:24 40:8 (5)</p> <p><b>them</b> 19:9 24:4 41:1 42:14 (4)</p> <p><b>there's</b> 4:14 17:5 21:13 25:3 34:7,9,12 36:6,12 38:18 40:13 41:6,23 (13)</p> <p><b>thereby</b> 7:8</p> <p><b>therefore</b> 14:12</p> <p><b>these</b> 8:17 11:8 15:18 19:9 (4)</p> <p><b>they'll</b> 39:23</p> <p><b>they're</b> 16:4 17:8</p>	<p>35:3 38:21,23 (5)</p> <p><b>they've</b> 38:22 42:16</p> <p><b>thing</b> 38:8 39:18</p> <p><b>things</b> 24:9</p> <p><b>think</b> 37:7 43:19</p> <p><b>thomas</b> 15:25</p> <p><b>those</b> 8:20 9:10 10:3,18,20 13:14 39:9 (7)</p> <p><b>though</b> 22:5</p> <p><b>thought</b> 24:9</p> <p><b>three</b> 6:8 22:17</p> <p><b>threepoint</b> 37:16</p> <p><b>threw</b> 39:3</p> <p><b>through</b> 5:17 8:2,20 17:11 20:18,23 22:16 26:20 35:9 40:13 (10)</p> <p><b>throughout</b> 12:15,19 31:15</p> <p><b>throw</b> 26:12</p> <p><b>tight</b> 37:22</p> <p><b>time</b> 4:11 19:24 20:1,14 21:2,18 26:24 27:19 29:1 33:10 42:14,17,24 (13)</p> <p><b>times</b> 35:11 36:25</p> <p><b>today</b> 18:5</p> <p><b>todd</b> 25:4</p>
---	---	---	---	--



<p><b>together</b> 34:15</p> <p><b>told</b> 41:1,15,16 42:15 (4)</p> <p><b>tomorrow</b> 18:23</p> <p><b>tonight</b> 11:9</p> <p><b>top</b> 37:10</p> <p><b>total</b> 35:13</p> <p><b>township</b> 1:1,7,13,14,14,16 3:16,25 4:4 6:11 7:15 13:6,23 14:15,19 15:25 20:24 26:22 39:4 41:20 (20)</p> <p><b>track</b> 22:1</p> <p><b>traffic</b> 9:22 13:11 36:6,12,15 (5)</p> <p><b>traisr</b> 21:19 22:4,6,9,11 (5)</p> <p><b>transcript</b> 1:18,24 45:11</p> <p><b>transmission</b> 40:17,20</p> <p><b>treasurer</b> 1:12</p> <p><b>trees</b> 31:11 37:6,11,13 38:3,15,15 40:12 42:22 (9)</p> <p><b>tremendous</b> 29:4</p> <p><b>truck</b> 29:11,12 31:13,19 36:11,18,20 37:3,15 (9)</p> <p><b>trying</b> 23:13 38:10</p> <p><b>turn</b> 37:16,19</p>	<p><b>twice</b> 36:23</p> <p><b>two</b> 5:11 11:5 35:11</p> <p><b>type</b> 10:4 42:20</p> <p><b>uhhuh</b> 22:13 37:17</p> <p><b>uncommon</b> 25:8</p> <p><b>under</b> 40:16</p> <p><b>underneath</b> 40:6</p> <p><b>understand</b> 17:5 19:1 23:13</p> <p><b>understanding</b> 26:3 28:21 37:23</p> <p><b>unfortunately</b> 38:13</p> <p><b>unlawful</b> 7:4</p> <p><b>unlawfully</b> 7:1</p> <p><b>until</b> 21:8 38:16</p> <p><b>up</b> 17:6,8 22:17 25:7 26:12,15 29:12 36:8,20 43:25 (10)</p> <p><b>upandup</b> 28:25</p> <p><b>us</b> 27:25 41:18 42:8</p> <p><b>usage</b> 14:19</p> <p><b>use</b> 1:4 4:6,23 5:3 6:19 7:10,19 8:15 9:17,20,23 10:2,5,6,10,13 12:1,7,25 13:9,10,15 14:6,6,12 15:19,23 19:16,18 20:13 30:9,12,20 31:12,16,21 32:1</p>	<p>34:16,20,22 35:21 (41)</p> <p><b>used</b> 9:3 10:4 15:2 26:9 30:22 34:2,24 38:17 (8)</p> <p><b>uses</b> 6:22 25:9</p> <p><b>using</b> 6:18</p> <p><b>usually</b> 24:14 36:7,20</p> <p><b>utilized</b> 7:9</p> <p><b>v</b> 1:16</p> <p><b>vacation</b> 37:7</p> <p><b>value</b> 27:24 30:14</p> <p><b>values</b> 10:11 31:8</p> <p><b>van</b> 29:14</p> <p><b>vans</b> 31:14,14</p> <p><b>variance</b> 17:18</p> <p><b>variation</b> 9:13</p> <p><b>vehicle</b> 10:17 36:8</p> <p><b>vehicles</b> 10:13,15 12:13,16 14:9 31:12,19 37:2 (8)</p> <p><b>vehicular</b> 9:21 13:1,12</p> <p><b>very</b> 40:7</p> <p><b>vibration</b> 9:15</p> <p><b>vibrations</b> 12:21</p> <p><b>vice</b> 1:12</p> <p><b>view</b> 39:20</p>	<p><b>viii</b> 9:18</p> <p><b>violation</b> 6:25</p> <p><b>visits</b> 14:8</p> <p><b>visual</b> 16:5</p> <p><b>wachterwillis</b> 23:25</p> <p><b>wait</b> 17:5</p> <p><b>waivers</b> 8:6</p> <p><b>want</b> 29:22,23 34:21 36:4 38:23 (5)</p> <p><b>wanted</b> 17:6 19:13 26:22 34:5 (4)</p> <p><b>warehouse</b> 14:13</p> <p><b>wasn't</b> 21:8 22:25 27:20 29:11,13 (5)</p> <p><b>water</b> 10:6</p> <p><b>way</b> 15:9 17:19 24:10 33:5 37:25 38:24 40:4 (7)</p> <p><b>we'll</b> 43:19 44:20</p> <p><b>we're</b> 16:3</p> <p><b>we've</b> 28:4</p> <p><b>week</b> 36:24 37:7</p> <p><b>well</b> 17:12 21:25 23:1,16 28:3,10 30:3 33:13 34:21 41:16 (10)</p> <p><b>went</b> 5:7 20:15 21:6 22:10 38:12 (5)</p> <p><b>western</b> 15:13</p>	<p><b>what</b> 11:4 16:3 23:12 24:1 26:6 32:14 38:24 41:1,15,21,22 42:15,15 (13)</p> <p><b>what's</b> 25:10</p> <p><b>whatever</b> 26:17 42:24</p> <p><b>whatsoever</b> 26:7</p> <p><b>when</b> 19:2,25 20:14 21:6,12 22:5,8,10,23 24:2 26:10 27:3,4 28:14 29:6,14 36:10 39:3 (18)</p> <p><b>where</b> 17:22,24,25 18:4 19:4 28:16 40:7 42:2 (8)</p> <p><b>whether</b> 13:11</p> <p><b>which</b> 4:23 6:3,20 7:18 8:10 9:25,25 10:8 12:2 13:9,10,15 14:6 15:16 16:15,18 17:7 20:3 31:4 32:13 34:13 (21)</p> <p><b>who</b> 23:22 29:1</p> <p><b>whole</b> 34:22</p> <p><b>wholly</b> 8:24</p> <p><b>why</b> 16:18 37:23</p> <p><b>wide</b> 19:3</p> <p><b>will</b> 4:11,23,24 7:24 8:17 15:2,8,12 16:24 17:13 18:18,18 30:20 43:17 44:5,9 (16)</p> <p><b>winnners</b> 38:18</p>
---	---	--	--	--

<p><b>withdraw</b> 18:23</p> <p><b>within</b> 7:4 8:24 12:11 13:18,23 25:2 28:12 45:9 (8)</p> <p><b>without</b> 1:25 6:24 7:3</p> <p><b>witness</b> 4:16</p> <p><b>woman</b> 24:17</p> <p><b>work</b> 10:16 13:2,25 14:11 43:2 (5)</p> <p><b>workers</b> 12:13 14:8</p> <p><b>working</b> 43:1</p> <p><b>worried</b> 21:15</p> <p><b>would</b> 4:18,21 8:20,21 15:17 17:17,18,19 18:3 19:3,6,7 25:21 27:11 28:17,21 29:1,12 32:11 33:4 34:13,16,17 36:8 38:2 40:4 43:20,25 (28)</p> <p><b>wouldn't</b> 38:7</p> <p><b>writing</b> 8:6</p> <p><b>written</b> 5:10 12:4 30:4,7 (4)</p> <p><b>wrong</b> 24:9 42:16</p> <p><b>x</b> 2:1 9:10</p> <p><b>yeah</b> 21:17 22:19,23 24:16,18 25:22,25 26:13 33:2,3 36:4,22 37:1,4 38:6 39:14 41:8 (17)</p>	<p><b>year</b> 12:11</p> <p><b>years</b> 25:17 28:11,12 36:20 38:16 (5)</p> <p><b>yes</b> 4:20 8:22 10:25 16:8 17:10 18:11,13 25:20 28:3 32:19 42:11 (11)</p> <p><b>yesterday</b> 40:10 41:13</p> <p><b>yet</b> 17:9 22:25</p> <p><b>you'd</b> 5:18</p> <p><b>you'll</b> 8:14</p> <p><b>you're</b> 4:14 29:3</p> <p><b>you've</b> 30:4</p> <p><b>your</b> 5:5 17:25 24:20 25:1 27:2,13,13 28:5 36:5,7 (10)</p> <p><b>yourself</b> 29:4</p> <p><b>zaslocke's</b> 30:8</p> <p><b>zone</b> 29:3</p> <p><b>zoned</b> 12:3</p> <p><b>zoning</b> 4:9 5:5,21,25 6:4,21 7:17 13:24 15:21 17:18 19:5,16,25 20:22 21:5 26:3 38:11 (17)</p> <p><b>420</b> 35:21</p> <p><b>443</b> 4:8 5:4 6:20 11:24 16:6 20:10 30:10 39:24 (8)</p> <p><b>445</b> 5:14 16:9 28:13 30:16 39:22</p>	<p>(5)</p> <p><b>449</b> 5:13,23 6:6 11:18,23 16:12 20:7,11 22:8 27:5 28:13 (11)</p> <p><b>604</b> 1:22 3:2</p> <p><b>647</b> 44:23</p> <p><b>960</b> 5:24 35:5,19</p> <p><b>1842</b> 35:11,18</p> <p><b>2019</b> 5:21 6:7</p> <p><b>2020</b> 6:4,11,17 7:16 (4)</p> <p><b>2021</b> 1:22</p> <p><b>2023</b> 45:25</p> <p><b>15071</b> 1:9 11:19</p> <p><b>15205</b> 1:23</p> <p><b>27205</b> 13:16</p> <p><b>271402</b> 13:5</p> <p><b>4580439</b> 1:412</p>		
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