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INCORPORATED VILLAGE OF LAUREL HOLLOW

BOARD OF ZONING APPEALS

March 19, 2019

7:30 p.m.

HEARINGS -

ZV5-2017 & ZS6-2017: Poll

Variances are needed for side yard setback and heating system. Approval is needed for revised Site Plan

P R E S E N T:

Russell Mohr, Chairman

Jeffrey Blumin, Board Member

Cindy Kaufman, Board Member

Louis Lebedin, Board Member

Vincent Parziale, Board Member

James Antonelli, Village Engineer

Howard Avrutine, Esq., Village Attorney

1 MR. AVRUTINE: Next public hearing case  
2 ZV5-2017 and ZS6-2017. The reopening of the  
3 public hearing on application of Edward Butt on  
4 behalf of George Poll to revise site plan  
5 previously approved by the Board of Zoning  
6 Appeals where the proposed amended plan deviate  
7 from the plan previously approved by the Board  
8 of Zoning Appeals on 11/29/2017.

9 An additional wrap-around deck on the west  
10 side of the building will violate section  
11 145-5B2 of Laurel Hollow Village Code in that an  
12 accessory building shall be set back at least 40  
13 feet from every lot line not abutting a street.  
14 The proposed setback is 14.85 feet; previously  
15 approved setback was 20.85 feet.

16 Lastly the installation of a propane-fueled  
17 fireplace will violate section 145-5A1C of the  
18 Laurel Hollow Village Code in that no accessory  
19 building shall have a heating system.

20 The property under application designated  
21 as section 26 block C lot 258 on the Nassau  
22 County Land and Tax Map.

23 The exhibits in connection with this  
24 application are as follows, first notification

1 from the Nassau County Planning Commission  
2 January 14, 2019 that the matter is referred  
3 from Laurel Hollow Board of Zoning Appeals  
4 action as it deemed appropriate.

5 Next exhibit is the legal notice of public  
6 hearing dated February 27, 2019.

7 Next exhibit affidavit of posting from Nick  
8 Porcaro that the legal notice was posted  
9 conspicuously on the bulletin for the main  
10 entrance to the village hall on March 8, 2019.

11 Affidavit of publication illustrating that  
12 the legal notice was published in the North  
13 Shore Leader on March 6, 2019.

14 Next exhibit affidavit from the Deputy  
15 Clerk stating that the notice of public hearing  
16 was mailed to other interested parties on  
17 February 28, 2019.

18 Next exhibit consists of notice public  
19 hearing was published to the Village of Laurel  
20 Hollow website and sent to village website NEWS  
21 subscribers on March 4, 2019.

22 Next exhibit affidavit of mailing from the  
23 an applicant indicating notice of public hearing  
24 was mailed on March 4, 2019 to the person named

1 in the affidavit.

2 Next exhibit is prior variance copy of the  
3 prior variance approved by the board on  
4 11/29/2017.

5 Next exhibit is an amended site plan  
6 prepared by Edward Butt architect dated  
7 6/27/2016 most recently updated 11/9/2018.

8 Finally the final exhibit is a letter from  
9 James Antonelli, village engineer, dated  
10 February 7, 2019 regarding the proposed slope  
11 disturbance.

12 Mr. Butt, if you wouldn't mind just signing  
13 in on the sign-in sheet. Have your clients do  
14 the same, if you would.

15 MR. BUTT: Edward Butt from Edward Butt  
16 Architect, 82 Haddon Road, New Hyde Park, New  
17 York 11040.

18 Good evening, Mr. Chairman, members of the  
19 zoning board, I have two. I'd like to present a  
20 couple of elevations to compare what was to what  
21 is so that everybody has a copy of it. May make  
22 things a little simpler. So to sort of  
23 understand, if I may.

24 MR. AVRUTINE: Are these reproductions?

1           MR. BUTT: You already have them. Just to  
2           simplify it a little bit. Just so you can see  
3           what we are proposing from a visual standpoint.

4           So while we were under construction, we  
5           noticed that there was a tremendous view facing  
6           out in the other direction of this already  
7           approved accessory structure. And we felt that  
8           it would be in the best interest of the  
9           homeowner to have sort of a wraparound view as  
10          far as the esthetic is concerned.

11          I think you can see also that it sort of  
12          balances the additional structure itself. We're  
13          not increasing any floor area here. The floor  
14          area is remaining the same. And it's just a  
15          little bit more of a visual to gain the  
16          spectacular view that the village affords all  
17          its residents. That's really the request for  
18          that.

19          And as far as the conversion from electric  
20          to gas, both fireplaces produce heat. The  
21          electric fireplace does as well. It's very  
22          minimal. As far as heat is concerned we don't  
23          plan on using this during the winter time or any  
24          of the colder months of the year.

1           But the electric fireplace when you look at  
2           it it's sort of like cartoon almost when you  
3           look at it. It's not an of actual fire. It's  
4           just -- it doesn't give the same effect that gas  
5           fireplace would give. And certainly we have all  
6           volted ceilings in here the amount of heat that  
7           puts up would not heat this space.

8           This space is practically enclosed on at  
9           least three sides with glass. You turn this  
10          thing on and it's 30 degrees out and it's not  
11          heating the space. It's not going to serve as a  
12          heating element or encourage a heating in any,  
13          way, manner shape or form.

14          It's just again it looks like a fire as  
15          opposed to the electric heater which is sort of  
16          visual thing, but it does give off 11,000 BTUs  
17          electric one. And the gas one gives off about  
18          11,000. It's very minimal change in the case  
19          and it's not the intent of the homeowner to use  
20          this as some sort of winter retreat.

21          I would imagine after the time in the  
22          winter it's probably dangerous to go down that  
23          common road anyway. So it's really -- we're  
24          really looking to sort of request just the fact

1 make it feel more like a fire, so.

2 But like I said, the gas fireplace -- and I  
3 have brought brochures if you would like to look  
4 at them. You can pass them around. Those are  
5 the two. One with the gas it says it on the  
6 front but --

7 MR. AVRUTINE: Do you have extra copy of  
8 your rendering so I can mark as an exhibit. I  
9 will mark this item as well.

10 MR. BUTT: So we're here to respectfully  
11 request the granting of both variances. We  
12 don't believe it has any impact on the  
13 community. We believe that it's certainly not  
14 going to encourage any winter activity down  
15 there. That's not the case. It's not their  
16 intention at all.

17 Even if it has to be some sort of  
18 conditional order we'd be glad to accept that as  
19 such. And we're just requesting those two  
20 changes so.

21 MR. MOHR: You had said electric was how  
22 many?

23 MR. BUTT: 11,000.

24 MR. MOHR: And how many with gas?

1 MR. BUTT: 10,000 --

2 MR. MOHR: 10 and 11.

3 MR. BUTT: Yes.

4 MR. MOHR: The other question would be is  
5 whether the electric approved by the Building  
6 Department prior because you do not believe it  
7 was in front of this board.

8 MR. BUTT: It was fireplace was always on  
9 there but it was told to us by the Building  
10 Department that it had to be electric.

11 MR. MOHR: Fair enough.

12 MR. AVRUTINE: For the record, the  
13 rendering document that the applicant submitted  
14 will be marked as applicant's exhibit one. The  
15 brochure for the gas fireplace will be marked as  
16 applicant's exhibit two. And the brochure for  
17 the electric fireplace will be marked as  
18 applicant's exhibit three. Thank you.

19 MR. MOHR: Any questions from the board?

20 MR. LEBEDIN: I'm confused. Like what was  
21 the reason why you were told it had to be  
22 electric?

23 MR. BUTT: We are not allowed to have gas  
24 fire place. That's in the code. That's the



1 interpretation that that gas is not permitted  
2 but electric was.

3 MR. MOHR: I discussed this with counsel  
4 earlier with regards to that. And I said it was  
5 a cold issue. And the -- Howard, you can  
6 explain it to the board.

7 MR. AVRUTINE: I believe that the building  
8 inspector interpreted the codes such as an  
9 electric unit such as this does not constitute  
10 heating. Whereas the actual fire whether it be  
11 birch wood or a gas fireplace, would constitute  
12 heating. And, therefore, in order to have that  
13 would require an approval by this board since  
14 the code does preclude heated accessory  
15 structures.

16 MR. MOHR: Therefore it kicked to us.

17 MR. LEBEDIN: Heating issues aspects --

18 MR. AVRUTINE: It has nothing to do with  
19 safety or nothing. Building code is a separate  
20 issue. Which the applicant must meet in all  
21 respects.

22 This is a zoning issue because our zoning  
23 code in the village does not allow an accessory  
24 structure to be heated. And the building

1 inspector interpreted the code as including this  
2 type of fireplace as a heating system. And  
3 therefore to have it would require a variance.

4 MR. MOHR: Any questions of the board?

5 MR. AVRUTINE: Mr. Butt, did you address  
6 the slope issue?

7 MR. BUTT: I think we have -- Mr. Antonelli  
8 and I looked at it, we felt that we were not  
9 touching the slope at all from what we're doing.  
10 Except for the supports themselves for the  
11 additional zone. I believe that the slope is  
12 minimal in its effect. I guess Mr. Antonelli  
13 could add to that if he'd like.

14 MR. ANTONELLI: Yes, I believe one of the  
15 exhibits listed was my letter to the building  
16 inspector dated February 7. Where I had  
17 indicated essentially that that I did review  
18 this as a modification to the slope application.  
19 And I thought that the only ground disturbance  
20 would be the excavations portions, if you will,  
21 to install column supports.

22 I really didn't think there was any other  
23 type of, you know, certainly didn't impact the  
24 grading, filling or any other slope disturbance

1 other than that. And I thought it was minor in  
2 my opinion.

3 MR. MOHR: Any questions of the board?

4 MR. PARZIALE: No.

5 MR. MOHR: Public? Any public any  
6 questions.

7 MR. AVRUTINE: Let the record reflect that  
8 there are none.

9 Do we have a motion to close the public  
10 hearing?

11 MR. PARZIALE: Motion to close public  
12 hearing.

13 MR. AVRUTINE: Member Parziale. May we  
14 have a second?

15 MR. LEBEDIN: Second.

16 MR. AVRUTINE: Second by member Lebedin.

17 All in favor?

18 MS. KAUFMAN: Aye.

19 MR. MOHR: Aye.

20 MR. AVRUTINE: Do the variance application  
21 first.

22 Let the record reflect that the application  
23 is type two under New York State Environmental  
24 Quality Review Act.

1                   May I have a motion on the variance  
2 application?

3                   MS. KAUFMAN: So moved.

4                   MR. AVRUTINE: Motion to approve by member  
5 Kaufman.

6                   Do we have a second?

7                   MR. PARZIALE: Second.

8                   MR. LEBEDIN: Second.

9                   MR. AVRUTINE: Member Lebedin.  
10 All in favor?

11                   MR. MOHR: Aye.

12                   (Board says aye).

13                   MR. AVRUTINE: Approved.

14                   Now on to the slope application.

15                   Motion for the board to declare itself lead  
16 agency under New York State Environmental  
17 Quality Review Act. May I have a motion?

18                   MR. LEBEDIN: Motion to.

19                   MR. AVRUTINE: That would be motion by  
20 member Lebedin.

21                   Second?

22                   MS. KAUFMAN: Second.

23                   MR. AVRUTINE: By member Kaufman.

24                   All in favor?

1 MR. MOHR: Aye.

2 MR. PARZIALE: Aye.

3 MR. AVRUTINE: And now I need a motion to  
4 declare the matter unlisted under New York State  
5 Environmental Quality Review Act.

6 MS. KAUFMAN: Motion.

7 MR. AVRUTINE: That's member Kaufman.

8 May I have a second?

9 MR. LEBEDIN: Second.

10 MR. AVRUTINE: Member Lebedin.

11 All in favor?

12 (Board said aye).

13 MR. AVRUTINE: Mr. Antonelli, if I may have  
14 your recommendation regarding the SEQR analysis  
15 please?

16 MR. ANTONELLI: Yes, as part of my review I  
17 completed the short Environment Assessment Form  
18 part two which is entitled Impact Assessment. I  
19 run through the list of questions on the form as  
20 provided by New York State DEC. And I have  
21 concluded that based on the plan submitted the  
22 modification to the application, it is my  
23 professional opinion that the action would not  
24 result in any significant adverse environmental

1 impact.

2 MR. AVRUTINE: Therefore, do you recommend  
3 that the board adopt a negative declaration in  
4 connection with this slope disturbance  
5 application?

6 MR. ANTONELLI: Yes, I would and I took  
7 liberty of signing part two and submit that for  
8 the board's consideration.

9 MR. AVRUTINE: Thank you very much,  
10 Mr. Antonelli.

11 At this time, I would ask that the board  
12 make a motion to regarding the environmental  
13 impact and that it adopts negative declaration.

14 MR. PARZIALE: Make that motion.

15 MR. AVRUTINE: Negative declaration and  
16 motion is made by member Parziale.

17 Second please.

18 MS. KAUFMAN: Second.

19 MR. AVRUTINE: By member Kaufman.

20 All in favor.

21 ( Board said aye.)

22 MR. AVRUTINE: And motion on the  
23 application for slope disturbance.

24 MS. KAUFMAN: Motion to approve.

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MR. AVRUTINE: Motion to approve by member  
Kaufman.

Second.

MR. LEBEDIN: Second.

MR. AVRUTINE: All in favor.

(Board sad aye)

MR. AVRUTINE: Approved.

<p> <b>10</b> [1] - 8:2  <b>10,000</b> [1] - 8:1  <b>11</b> [1] - 8:2  <b>11,000</b> [3] - 6:16, 6:18, 7:23  <b>11/29/2017</b> [2] - 2:8, 4:4  <b>11/9/2018</b> [1] - 4:7  <b>11040</b> [1] - 4:17  <b>14</b> [1] - 3:2  <b>14.85</b> [1] - 2:14  <b>145-5A1C</b> [1] - 2:17  <b>145-5B2</b> [1] - 2:11  <b>19</b> [1] - 1:3  <b>20.85</b> [1] - 2:15  <b>2019</b> [9] - 1:3, 3:2, 3:6, 3:10, 3:13, 3:17, 3:21, 3:24, 4:10  <b>258</b> [1] - 2:21  <b>26</b> [1] - 2:21  <b>27</b> [1] - 3:6  <b>28</b> [1] - 3:17  <b>30</b> [1] - 6:10  <b>4</b> [2] - 3:21, 3:24  <b>40</b> [1] - 2:12  <b>6</b> [1] - 3:13  <b>6/27/2016</b> [1] - 4:7  <b>7</b> [2] - 4:10, 10:16  <b>7:30</b> [1] - 1:4  <b>8</b> [1] - 3:10  <b>82</b> [1] - 4:16  <b>abutting</b> [1] - 2:13  <b>accept</b> [1] - 7:18  <b>accessory</b> [5] - 2:12, 2:18, 5:7, 9:14, 9:23  <b>Act</b> [3] - 11:24, 12:17, 13:5  <b>action</b> [2] - 3:4, 13:23  <b>activity</b> [1] - 7:14  <b>actual</b> [2] - 6:3, 9:10  <b>add</b> [1] - 10:13  <b>additional</b> [3] - 2:9, 5:12, 10:11  <b>address</b> [1] - 10:5  <b>adopt</b> [1] - 14:3  <b>adopts</b> [1] - 14:13  <b>adverse</b> [1] - 13:24  <b>affidavit</b> [5] - 3:7, 3:11, 3:14, 3:22, 4:1  <b>affords</b> [1] - 5:16  <b>agency</b> [1] - 12:16  <b>allow</b> [1] - 9:23  <b>allowed</b> [1] - 8:23  <b>almost</b> [1] - 6:2  <b>amended</b> [2] - 2:6, 4:5  <b>amount</b> [1] - 6:6  <b>analysis</b> [1] - 13:14  <b>AND</b> [1] - 15:9  <b>Antonelli</b> [6] - 1:18, 4:9, 10:7, 10:12, 13:13, 14:10  <b>ANTONELLI</b> [3] - 10:14, 13:16, 14:6  <b>anyway</b> [1] - 6:23  <b>Appeals</b> [3] - 2:6, 2:8, 3:3  <b>APPEALS</b> [1] - 1:2  <b>applicant</b> [3] - 3:23, 8:13, 9:20 </p>	<p> <b>applicant's</b> [3] - 8:14, 8:16, 8:18  <b>application</b> [11] - 2:3, 2:20, 2:24, 10:18, 11:20, 11:22, 12:2, 12:14, 13:22, 14:5, 14:23  <b>appropriate</b> [1] - 3:4  <b>approval</b> [1] - 9:13  <b>Approval</b> [1] - 1:9  <b>approve</b> [3] - 12:4, 14:24, 15:1  <b>approved</b> [8] - 2:5, 2:7, 2:15, 4:3, 5:7, 8:5, 12:13, 15:7  <b>Architect</b> [1] - 4:16  <b>architect</b> [1] - 4:6  <b>area</b> [2] - 5:13, 5:14  <b>aspects</b> [1] - 9:17  <b>Assessment</b> [2] - 13:17, 13:18  <b>Attorney</b> [1] - 1:19  <b>Avrutine</b> [1] - 1:19  <b>AVRUTINE</b> [28] - 2:1, 4:24, 7:7, 8:12, 9:7, 9:18, 10:5, 11:7, 11:13, 11:16, 11:20, 12:4, 12:9, 12:13, 12:19, 12:23, 13:3, 13:7, 13:10, 13:13, 14:2, 14:9, 14:15, 14:19, 14:22, 15:1, 15:5, 15:7  <b>Aye</b> [1] - 11:18  <b>aye</b> [6] - 11:19, 12:11, 13:1, 13:2, 14:21, 15:6  <b>aye</b> [2] - 12:12, 13:12  <b>balances</b> [1] - 5:12  <b>based</b> [1] - 13:21  <b>BE</b> [1] - 15:9  <b>behalf</b> [1] - 2:4  <b>best</b> [1] - 5:8  <b>birch</b> [1] - 9:11  <b>bit</b> [2] - 5:2, 5:15  <b>block</b> [1] - 2:21  <b>Blumin</b> [1] - 1:14  <b>board</b> [11] - 4:3, 4:19, 8:7, 8:19, 9:6, 9:13, 10:4, 11:3, 12:15, 14:3, 14:11  <b>BOARD</b> [1] - 1:2  <b>Board</b> [11] - 1:14, 1:15, 1:16, 1:17, 2:5, 2:7, 3:3, 12:12, 13:12, 14:21, 15:6  <b>board's</b> [1] - 14:8  <b>brochure</b> [2] - 8:15, 8:16  <b>brochures</b> [1] - 7:3  <b>brought</b> [1] - 7:3  <b>BTUs</b> [1] - 6:16  <b>Building</b> [2] - 8:5, 8:9  <b>building</b> [7] - 2:10, 2:12, 2:19, 9:7, 9:19, 9:24, 10:15  <b>bulletin</b> [1] - 3:9  <b>BUTT</b> [9] - 4:15, 5:1, 7:10, 7:23, 8:1, 8:3, 8:8, 8:23, 10:7  <b>Butt</b> [5] - 2:3, 4:6, 4:15, 10:5  <b>butt</b> [1] - 4:12  <b>cartoon</b> [1] - 6:2  <b>case</b> [3] - 2:1, 6:18, 7:15  <b>ceilings</b> [1] - 6:6  <b>certainly</b> [3] - 6:5, 7:13, 10:23  <b>CERTIFIED</b> [1] - 15:9  <b>Chairman</b> [2] - 1:13, 4:18 </p>	<p> <b>change</b> [1] - 6:18  <b>changes</b> [1] - 7:20  <b>Cindy</b> [1] - 1:15  <b>Clerk</b> [1] - 3:15  <b>clients</b> [1] - 4:13  <b>close</b> [2] - 11:9, 11:11  <b>code</b> [5] - 8:24, 9:14, 9:19, 9:23, 10:1  <b>Code</b> [2] - 2:11, 2:18  <b>codes</b> [1] - 9:8  <b>cold</b> [1] - 9:5  <b>colder</b> [1] - 5:24  <b>column</b> [1] - 10:21  <b>Commission</b> [1] - 3:1  <b>common</b> [1] - 6:23  <b>community</b> [1] - 7:13  <b>compare</b> [1] - 4:20  <b>completed</b> [1] - 13:17  <b>concerned</b> [2] - 5:10, 5:22  <b>concluded</b> [1] - 13:21  <b>conditional</b> [1] - 7:18  <b>confused</b> [1] - 8:20  <b>connection</b> [2] - 2:23, 14:4  <b>consideration</b> [1] - 14:8  <b>consists</b> [1] - 3:18  <b>conspicuously</b> [1] - 3:9  <b>constitute</b> [2] - 9:9, 9:11  <b>construction</b> [1] - 5:4  <b>conversion</b> [1] - 5:19  <b>copy</b> [3] - 4:2, 4:21, 7:7  <b>CORRECT</b> [1] - 15:9  <b>counsel</b> [1] - 9:3  <b>County</b> [2] - 2:22, 3:1  <b>couple</b> [1] - 4:20  <b>COURT</b> [1] - 15:11  <b>dangerous</b> [1] - 6:22  <b>dated</b> [4] - 3:6, 4:6, 4:9, 10:16  <b>DEC</b> [1] - 13:20  <b>deck</b> [1] - 2:9  <b>declaration</b> [3] - 14:3, 14:13, 14:15  <b>declare</b> [2] - 12:15, 13:4  <b>deemed</b> [1] - 3:4  <b>degrees</b> [1] - 6:10  <b>Department</b> [2] - 8:6, 8:10  <b>Deputy</b> [1] - 3:14  <b>designated</b> [1] - 2:20  <b>deviate</b> [1] - 2:6  <b>direction</b> [1] - 5:6  <b>discussed</b> [1] - 9:3  <b>disturbance</b> [5] - 4:11, 10:19, 10:24, 14:4, 14:23  <b>document</b> [1] - 8:13  <b>down</b> [2] - 6:22, 7:14  <b>during</b> [1] - 5:23  <b>Edward</b> [4] - 2:3, 4:6, 4:15  <b>effect</b> [2] - 6:4, 10:12  <b>electric</b> [12] - 5:19, 5:21, 6:1, 6:15, 6:17, 7:21, 8:5, 8:10, 8:17, 8:22, 9:2, 9:9  <b>element</b> [1] - 6:12  <b>elevations</b> [1] - 4:20 </p>
---	---	--



**enclosed** [1] - 6:8  
**encourage** [2] - 6:12, 7:14  
**engineer** [1] - 4:9  
**Engineer** [1] - 1:18  
**entitled** [1] - 13:18  
**entrance** [1] - 3:10  
**Environment** [1] - 13:17  
**environmental** [2] - 13:24, 14:12  
**Environmental** [3] - 11:23, 12:16, 13:5  
**Esq** [1] - 1:19  
**essentially** [1] - 10:17  
**esthetic** [1] - 5:10  
**evening** [1] - 4:18  
**excavations** [1] - 10:20  
**except** [1] - 10:10  
**exhibit** [12] - 3:5, 3:7, 3:14, 3:18, 3:22, 4:2, 4:5, 4:8, 7:8, 8:14, 8:16, 8:18  
**exhibits** [2] - 2:23, 10:15  
**explain** [1] - 9:6  
**extra** [1] - 7:7  
**facing** [1] - 5:5  
**fact** [1] - 6:24  
**fair** [1] - 8:11  
**far** [3] - 5:10, 5:19, 5:22  
**favor** [6] - 11:17, 12:10, 12:24, 13:11, 14:20, 15:5  
**February** [4] - 3:6, 3:17, 4:10, 10:16  
**feet** [3] - 2:13, 2:14, 2:15  
**felt** [2] - 5:7, 10:8  
**filling** [1] - 10:24  
**final** [1] - 4:8  
**finally** [1] - 4:8  
**fire** [5] - 6:3, 6:14, 7:1, 8:24, 9:10  
**fireplace** [10] - 2:17, 5:21, 6:1, 6:5, 7:2, 8:8, 8:15, 8:17, 9:11, 10:2  
**fireplaces** [1] - 5:20  
**first** [2] - 2:24, 11:21  
**floor** [2] - 5:13  
**follows** [1] - 2:24  
**form** [2] - 6:13, 13:19  
**Form** [1] - 13:17  
**front** [2] - 7:6, 8:7  
**fueled** [1] - 2:16  
**gain** [1] - 5:15  
**gas** [10] - 5:20, 6:4, 6:17, 7:2, 7:5, 7:24, 8:15, 8:23, 9:1, 9:11  
**George** [1] - 2:4  
**glad** [1] - 7:18  
**glass** [1] - 6:9  
**grading** [1] - 10:24  
**granting** [1] - 7:11  
**ground** [1] - 10:19  
**guess** [1] - 10:12  
**Haddon** [1] - 4:16  
**hall** [1] - 3:10  
**hearing** [8] - 2:1, 2:3, 3:6, 3:15, 3:19, 3:23, 11:10, 11:12  
**HEARINGS** [1] - 1:6  
**heat** [4] - 5:20, 5:22, 6:6, 6:7

**heated** [2] - 9:14, 9:24  
**heater** [1] - 6:15  
**heating** [9] - 1:9, 2:19, 6:11, 6:12, 9:10, 9:12, 9:17, 10:2  
**Hollow** [4] - 2:11, 2:18, 3:3, 3:20  
**HOLLOW** [1] - 1:1  
**homeowner** [2] - 5:9, 6:19  
**Howard** [2] - 1:19, 9:5  
**Hyde** [1] - 4:16  
**illustrating** [1] - 3:11  
**imagine** [1] - 6:21  
**Impact** [1] - 13:18  
**impact** [4] - 7:12, 10:23, 14:1, 14:13  
**including** [1] - 10:1  
**INCORPORATED** [1] - 1:1  
**increasing** [1] - 5:13  
**indicated** [1] - 10:17  
**indicating** [1] - 3:23  
**inspector** [3] - 9:8, 10:1, 10:16  
**install** [1] - 10:21  
**installation** [1] - 2:16  
**intent** [1] - 6:19  
**intention** [1] - 7:16  
**interest** [1] - 5:8  
**interested** [1] - 3:16  
**interpretation** [1] - 9:1  
**interpreted** [2] - 9:8, 10:1  
**issue** [4] - 9:5, 9:20, 9:22, 10:6  
**issues** [1] - 9:17  
**item** [1] - 7:9  
**itself** [2] - 5:12, 12:15  
**James** [2] - 1:18, 4:9  
**January** [1] - 3:2  
**Jeffrey** [1] - 1:14  
**KAUFMAN** [6] - 11:18, 12:3, 12:22, 13:6, 14:18, 14:24  
**Kaufman** [6] - 1:15, 12:5, 12:23, 13:7, 14:19, 15:2  
**kicked** [1] - 9:16  
**Land** [1] - 2:22  
**lastly** [1] - 2:16  
**LAUREL** [1] - 1:1  
**Laurel** [4] - 2:11, 2:18, 3:3, 3:19  
**lead** [1] - 12:15  
**Leader** [1] - 3:13  
**least** [2] - 2:12, 6:9  
**LEBEDIN** [7] - 8:20, 9:17, 11:15, 12:8, 12:18, 13:9, 15:4  
**Lebedin** [5] - 1:16, 11:16, 12:9, 12:20, 13:10  
**legal** [3] - 3:5, 3:8, 3:12  
**Leon** [1] - 15:10  
**LEON** [1] - 15:11  
**letter** [2] - 4:8, 10:15  
**liberty** [1] - 14:7  
**line** [1] - 2:13  
**list** [1] - 13:19  
**listed** [1] - 10:15  
**look** [3] - 6:1, 6:3, 7:3

**looked** [1] - 10:8  
**looking** [1] - 6:24  
**looks** [1] - 6:14  
**Louis** [1] - 1:16  
**mailed** [2] - 3:16, 3:24  
**mailing** [1] - 3:22  
**main** [1] - 3:9  
**manner** [1] - 6:13  
**Map** [1] - 2:22  
**March** [5] - 1:3, 3:10, 3:13, 3:21, 3:24  
**mark** [2] - 7:8, 7:9  
**marked** [3] - 8:14, 8:15, 8:17  
**matter** [2] - 3:2, 13:4  
**meet** [1] - 9:20  
**MELINDA** [1] - 15:11  
**Member** [4] - 1:14, 1:15, 1:16, 1:17  
**member** [11] - 11:13, 11:16, 12:4, 12:9, 12:20, 12:23, 13:7, 13:10, 14:16, 14:19, 15:1  
**members** [1] - 4:18  
**mind** [1] - 4:12  
**minimal** [3] - 5:22, 6:18, 10:12  
**minor** [1] - 11:1  
**modification** [2] - 10:18, 13:22  
**Mohr** [1] - 1:13  
**MOHR** [14] - 7:21, 7:24, 8:2, 8:4, 8:11, 8:19, 9:3, 9:16, 10:4, 11:3, 11:5, 11:19, 12:11, 13:1  
**months** [1] - 5:24  
**most** [1] - 4:7  
**motion** [16] - 11:9, 11:11, 12:1, 12:4, 12:15, 12:17, 12:18, 12:19, 13:3, 13:6, 14:12, 14:14, 14:16, 14:22, 14:24, 15:1  
**moved** [1] - 12:3  
**MR** [66] - 2:1, 4:15, 4:24, 5:1, 7:7, 7:10, 7:21, 7:23, 7:24, 8:1, 8:2, 8:3, 8:4, 8:8, 8:11, 8:12, 8:19, 8:20, 8:23, 9:3, 9:7, 9:16, 9:17, 9:18, 10:4, 10:5, 10:7, 10:14, 11:3, 11:4, 11:5, 11:7, 11:11, 11:13, 11:15, 11:16, 11:19, 11:20, 12:4, 12:7, 12:8, 12:9, 12:11, 12:13, 12:18, 12:19, 12:23, 13:1, 13:2, 13:3, 13:7, 13:9, 13:10, 13:13, 13:16, 14:2, 14:6, 14:9, 14:14, 14:15, 14:19, 14:22, 15:1, 15:4, 15:5, 15:7  
**MS** [6] - 11:18, 12:3, 12:22, 13:6, 14:18, 14:24  
**must** [1] - 9:20  
**named** [1] - 3:24  
**Nassau** [2] - 2:21, 3:1  
**need** [1] - 13:3  
**needed** [2] - 1:8, 1:9  
**negative** [3] - 14:3, 14:13, 14:15  
**New** [6] - 4:16, 11:23, 12:16, 13:4, 13:20  
**NEWS** [1] - 3:20  
**next** [8] - 2:1, 3:5, 3:7, 3:14, 3:18, 3:22, 4:2, 4:5  
**Nick** [1] - 3:7

**none** [1] - 11:8  
**North** [1] - 3:12  
**nothing** [2] - 9:18, 9:19  
**notice** [6] - 3:5, 3:8, 3:12, 3:15, 3:18, 3:23  
**noticed** [1] - 5:5  
**notification** [1] - 2:24  
**OF** [2] - 1:1, 1:2  
**one** [5] - 6:17, 7:5, 8:14, 10:14  
**opinion** [2] - 11:2, 13:23  
**opposed** [1] - 6:15  
**order** [2] - 7:18, 9:12  
**p.m** [1] - 1:4  
**Park** [1] - 4:16  
**part** [3] - 13:16, 13:18, 14:7  
**parties** [1] - 3:16  
**PARZIALE** [5] - 11:4, 11:11, 12:7, 13:2, 14:14  
**Parziale** [3] - 1:17, 11:13, 14:16  
**pass** [1] - 7:4  
**permitted** [1] - 9:1  
**person** [1] - 3:24  
**place** [1] - 8:24  
**Plan** [1] - 1:10  
**plan** [6] - 2:4, 2:6, 2:7, 4:5, 5:23, 13:21  
**Planning** [1] - 3:1  
**Poll** [2] - 1:7, 2:4  
**Porcaro** [1] - 3:8  
**portions** [1] - 10:20  
**posted** [1] - 3:8  
**posting** [1] - 3:7  
**practically** [1] - 6:8  
**preclude** [1] - 9:14  
**prepared** [1] - 4:6  
**present** [1] - 4:19  
**previously** [3] - 2:5, 2:7, 2:14  
**produce** [1] - 5:20  
**professional** [1] - 13:23  
**propane** [1] - 2:16  
**propane-fueled** [1] - 2:16  
**property** [1] - 2:20  
**proposed** [3] - 2:6, 2:14, 4:10  
**proposing** [1] - 5:3  
**provided** [1] - 13:20  
**public** [9] - 2:1, 2:3, 3:5, 3:15, 3:18, 3:23, 11:5, 11:9, 11:11  
**Public** [1] - 11:5  
**publication** [1] - 3:11  
**published** [2] - 3:12, 3:19  
**puts** [1] - 6:7  
**Quality** [3] - 11:24, 12:17, 13:5  
**questions** [5] - 8:19, 10:4, 11:3, 11:6, 13:19  
**really** [4] - 5:17, 6:23, 6:24, 10:22  
**reason** [1] - 8:21  
**recently** [1] - 4:7  
**recommend** [1] - 14:2  
**recommendation** [1] - 13:14  
**record** [3] - 8:12, 11:7, 11:22

**referred** [1] - 3:2  
**reflect** [2] - 11:7, 11:22  
**regarding** [3] - 4:10, 13:14, 14:12  
**regards** [1] - 9:4  
**remaining** [1] - 5:14  
**rendering** [2] - 7:8, 8:13  
**reopening** [1] - 2:2  
**REPORTER** [1] - 15:11  
**reproductions** [1] - 4:24  
**request** [3] - 5:17, 6:24, 7:11  
**requesting** [1] - 7:19  
**require** [2] - 9:13, 10:3  
**residents** [1] - 5:17  
**respectfully** [1] - 7:10  
**respects** [1] - 9:21  
**result** [1] - 13:24  
**retreat** [1] - 6:20  
**review** [2] - 10:17, 13:16  
**Review** [3] - 11:24, 12:17, 13:5  
**revise** [1] - 2:4  
**revised** [1] - 1:9  
**Road** [1] - 4:16  
**road** [1] - 6:23  
**RPR** [1] - 15:11  
**run** [1] - 13:19  
**Russell** [1] - 1:13  
**sad** [1] - 15:6  
**safety** [1] - 9:19  
**second** [14] - 11:14, 11:15, 11:16, 12:6, 12:7, 12:8, 12:21, 12:22, 13:8, 13:9, 14:17, 14:18, 15:3, 15:4  
**section** [3] - 2:10, 2:17, 2:21  
**see** [2] - 5:2, 5:11  
**SENIOR** [1] - 15:11  
**sent** [1] - 3:20  
**separate** [1] - 9:19  
**SEQR** [1] - 13:14  
**serve** [1] - 6:11  
**set** [1] - 2:12  
**setback** [3] - 1:8, 2:14, 2:15  
**shall** [2] - 2:12, 2:19  
**shape** [1] - 6:13  
**sheet** [1] - 4:13  
**Shore** [1] - 3:13  
**short** [1] - 13:17  
**side** [2] - 1:8, 2:10  
**sides** [1] - 6:9  
**sign** [1] - 4:13  
**sign-in** [1] - 4:13  
**significant** [1] - 13:24  
**signing** [2] - 4:12, 14:7  
**simpler** [1] - 4:22  
**simplify** [1] - 5:2  
**Site** [1] - 1:10  
**site** [2] - 2:4, 4:5  
**slope** [9] - 4:10, 10:6, 10:9, 10:11, 10:18, 10:24, 12:14, 14:4, 14:23  
**sort** [8] - 4:22, 5:9, 5:11, 6:2, 6:15, 6:20, 6:24, 7:17

**space** [3] - 6:7, 6:8, 6:11  
**spectacular** [1] - 5:16  
**standpoint** [1] - 5:3  
**State** [4] - 11:23, 12:16, 13:4, 13:20  
**stating** [1] - 3:15  
**street** [1] - 2:13  
**structure** [3] - 5:7, 5:12, 9:24  
**structures** [1] - 9:15  
**submit** [1] - 14:7  
**submitted** [2] - 8:13, 13:21  
**subscribers** [1] - 3:21  
**supports** [2] - 10:10, 10:21  
**system** [3] - 1:9, 2:19, 10:2  
**Tax** [1] - 2:22  
**themselves** [1] - 10:10  
**therefore** [4] - 9:12, 9:16, 10:3, 14:2  
**three** [2] - 6:9, 8:18  
**TO** [1] - 15:9  
**took** [1] - 14:6  
**touching** [1] - 10:9  
**tremendous** [1] - 5:5  
**TRUE** [1] - 15:9  
**turn** [1] - 6:9  
**two** [7] - 4:19, 7:5, 7:19, 8:16, 11:23, 13:18, 14:7  
**type** [3] - 10:2, 10:23, 11:23  
**under** [5] - 2:20, 5:4, 11:23, 12:16, 13:4  
**unit** [1] - 9:9  
**unlisted** [1] - 13:4  
**up** [1] - 6:7  
**updated** [1] - 4:7  
**variance** [5] - 4:2, 4:3, 10:3, 11:20, 12:1  
**Variances** [1] - 1:8  
**variances** [1] - 7:11  
**view** [3] - 5:5, 5:9, 5:16  
**village** [5] - 3:10, 3:20, 4:9, 5:16, 9:23  
**VILLAGE** [1] - 1:1  
**Village** [5] - 1:18, 1:19, 2:11, 2:18, 3:19  
**Vincent** [1] - 1:17  
**violate** [2] - 2:10, 2:17  
**visual** [3] - 5:3, 5:15, 6:16  
**volted** [1] - 6:6  
**website** [2] - 3:20  
**west** [1] - 2:9  
**whereas** [1] - 9:10  
**winter** [4] - 5:23, 6:20, 6:22, 7:14  
**wood** [1] - 9:11  
**wrap** [1] - 2:9  
**wrap-around** [1] - 2:9  
**wraparound** [1] - 5:9  
**yard** [1] - 1:8  
**year** [1] - 5:24  
**York** [5] - 4:17, 11:23, 12:16, 13:4, 13:20  
**zone** [1] - 10:11  
**Zoning** [3] - 2:5, 2:8, 3:3  
**zoning** [3] - 4:19, 9:22  
**ZONING** [1] - 1:2  
**ZS6-2017** [2] - 1:7, 2:2

**ZV5-2017** [2] - 1:7, 2:2