

In The Matter Of:
Town of Mamakating
Zoning Board of Appeals

Meeting Minutes
1-31-19
January 31, 2019

Jeric Corporation
Court Reporting Services
P.O. Box 385
Narrowsburg, NY 12764
(845) 252-3515

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ZONING BOARD OF APPEALS

MINUTES

January 31, 2019

TOWN HALL

WURTSBORO, NEW YORK

ZONING BOARD MEMBERS :

MATTHEW MORDAS, Chairman

CATHY DAWKINS, Board Member

KENT FINDLEY, Board Member

MATTHEW MORREALE, Board Member

STEVEN MOGEL, ESQ., Attorney

KYRA PLATT, Building Department

JERIC CORPORATION
Court Reporting Services
P.O. Box 385
Narrowsburg, New York 12764
(845) 252-3515

Reported by: Rosemary A. Meyer

A G E N D A I N D E X

	Pages
Call Meeting to Order	4
Acceptance of Minutes	4
Keith Pander - Public Hearing - Area Variance .	3 - 22
Patrick Theodore - Area Variance	23 - 40
Close Meeting	39

* * * * *

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

Keith Pander
Area Variance
Tax Map Section 27.A; Block 6; Lot 1
Burlingham Residential Zone

----- X

Town Hall
Town of Mamakating
January 31, 2019
7:03 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- CATHY DAWKINS, Board Member
- KENT FINDLEY, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Keith Pander, Applicant

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P.O. Box 385
Narrowsburg, New York 12764
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Reported by: Rosemary A. Meyer

1 - RE: KEITH PANDER -

2 CHAIRMAN MORDAS: Good evening, ladies and gentlemen.
3 Welcome to the Mamakating Zoning Board of Appeals meeting
4 for January 31st, 2019. I am the chairman, Matthew Mordas.

5 I start off the meeting with a roll call.

6 Kent.

7 BOARD MEMBER FINDLEY: I'm here.

8 CHAIRMAN MORDAS: Matthew.

9 BOARD MEMBER MORREALE: Present.

10 CHAIRMAN MORDAS: Cathy

11 BOARD MEMBER DAWKINS: Here.

12 CHAIRMAN MORDAS: And Georgia is not here. She's
13 still in Florida.

14 And we're expecting, at any moment, our counsel, Steve
15 Mogel. But because he's not here ...

16 BOARD MEMBER DAWKINS: Wait a minute, wait a minute.
17 there he is.

18 CHAIRMAN MORDAS: All right.

19 MR. MOGEL: Let's get the party started.

20 CHAIRMAN MORDAS: Steve Mogel is now present.

21 I'd like to ask for a motion to accept the November
22 and December 2018 of minutes.

23 BOARD MEMBER MORREALE: I'll make that motion.

24 CHAIRMAN MORDAS: Do I have a second?

25 BOARD MEMBER DAWKINS: I'll second.

1 - RE: KEITH PANDER -

2 CHAIRMAN MORDAS: All in favor?

3 BOARD MEMBER DAWKINS: Aye.

4 BOARD MEMBER FINDLEY: Aye.

5 BOARD MEMBER MORREALE: Aye.

6 CHAIRMAN MORDAS: Aye.

7 (The motion was approved and carried.)

8 CHAIRMAN MORDAS: Okay.

9 Do I have a motion to open the public hearing for
10 Mr. Keith Pander?

11 BOARD MEMBER DAWKINS: I'll move.

12 CHAIRMAN MORDAS: Cathy.

13 BOARD MEMBER MORREALE: Second.

14 CHAIRMAN MORDAS: All in favor?

15 BOARD MEMBER DAWKINS: Aye.

16 BOARD MEMBER FINDLEY: Aye.

17 BOARD MEMBER MORREALE: Aye.

18 CHAIRMAN MORDAS: Aye.

19 (The motion was approved and carried.)

20 CHAIRMAN MORDAS: All right, Mr. Pander is present.

21 Please step up to the podium and restate to the Zoning
22 Board what you're in front of us for.

23 BOARD MEMBER DAWKINS: Brief us on what you did.

24 MR. PANDER: I had a shed delivered. It's against the
25 rules or regulations. It's 12 feet in front of my front

1 - RE: KEITH PANDER -

2 wall of my house.

3 CHAIRMAN MORDAS: So you're asking for a variance to
4 be able to situate the shed in the front yard closer than
5 the front wall of the house to the street.

6 MR. PANDER: Yes.

7 CHAIRMAN MORDAS: All right. Has Mr. Pander supplied
8 us with the mailings to your satisfaction?

9 MS. PLATT: Yes.

10 CHAIRMAN MORDAS: Have the local newspapers been
11 notified in a timely fashion as to the public hearing?

12 MS. PLATT: Yes.

13 CHAIRMAN MORDAS: Okay. Thank you, Mr. Pander.

14 Anybody from the public care to speak?

15 MS. PLATT: Nobody signed up.

16 CHAIRMAN MORDAS: Nobody signed up? All right.

17 Any questions from the Board for Mr. Pander?

18 BOARD MEMBER FINDLEY: How many mailings did you have
19 to do? Like how many --

20 MR. PANDER: Thirty-two, I think.

21 BOARD MEMBER FINDLEY: Thirty-two.

22 CHAIRMAN MORDAS: All right. Any other questions from
23 the Board?

24 BOARD MEMBER FINDLEY: No.

25 CHAIRMAN MORDAS: All right.

1 - RE: KEITH PANDER -

2 BOARD MEMBER FINDLEY: I'll ask one more.

3 Do you have a picture from the road? I wasn't sure if
4 any of those pictures were from the road.

5 BOARD MEMBER DAWKINS: This is from the road.

6 So refresh my memory. You had an existing concrete
7 pad, you put a concrete pad, this is --

8 MR. PANDER: It's stone.

9 BOARD MEMBER DAWKINS: It's stone.

10 MR. PANDER: Stone pad.

11 BOARD MEMBER DAWKINS: So there is no pad. It's a
12 prefab set on your stone.

13 MR. K. PANDER: Stone, right.

14 CHAIRMAN MORDAS: I've been out to the site. I don't
15 really have any question for you in regards to the siting
16 of the shed.

17 Generally, when people are in front of the Board, and
18 I'm speaking for myself as one voting member here, I have
19 kind of a criteria in regards to granting relief for our
20 zoning regulations regarding the situation of sheds closer
21 to the street than the front wall of the house. I look at
22 the topography of the property. Engineering
23 considerations, a lot of money's, it's got to be a real
24 hardship is incurred trying to level off an area to place
25 the shed. Also, I look at future utility of the structure.

1 - RE: KEITH PANDER -

2 Are we forcing you to stick it into a swamp where it's not
3 going to be useful to you in the future. And of course,
4 there's miscellaneous things, heritage trees, old trees.

5 I'm not convinced that you reached that level, to me,
6 that is, in regards to granting relief. I feel that you
7 could have pushed the structure back away from the road and
8 done a nice job with the shed and the placement and still
9 stay within the Town regulations. I really do feel that
10 way, the code, regarding this accessory structure here.

11 BOARD MEMBER DAWKINS: I'm going to be honest with
12 you. I disagree with you a little bit. I'm not sure how
13 much further -- I did not get out car today. I was going
14 to go yesterday but that was even worse.

15 I see the slope. I think the slope is a problem. I
16 can see exactly why you didn't put it any further back. I
17 think if you had had it closer to the house it could have
18 been back a little further. And I guess my feeling is very
19 similar to the feeling we had with the claim that was at
20 the last meeting, two months ago. I'm not convinced that
21 No. 1, it can't be moved, and No. 2, it can't be moved a
22 little closer to the house and a little further back to
23 minimize, at some level, the degree of noncompliance.

24 I don't know. Kent and Matt, did you have any
25 feelings about the placement?

1 - RE: KEITH PANDER -

2 BOARD MEMBER MORREALE: I'm in alignment with Matt.

3 Mr. Pander, did you take out a building permit for the
4 shed?

5 MR. PANDER: I -- I did, yes.

6 BOARD MEMBER MORREALE: Okay.

7 MR. PANDER: I had it delivered before the ...

8 BOARD MEMBER MORREALE: Before? Okay.

9 BOARD MEMBER DAWKINS: What's the size? Refresh my
10 memory.

11 MR. PANDER: It's 12 by 20.

12 BOARD MEMBER MORREALE: 12 by 20.

13 BOARD MEMBER FINDLEY: 12 by 20.

14 CHAIRMAN MORDAS: Kent, anything you care to add to
15 this conversation?

16 BOARD MEMBER FINDLEY: I think it looks nice. It
17 matches the house. I don't have a particular issue with
18 it. He has a rock wall behind it, didn't want to disturb
19 his rock wall. I'd rather it not be closer to the house.

20 CHAIRMAN MORDAS: I feel the same way as you in those
21 regards.

22 BOARD MEMBER FINDLEY: So I don't --

23 CHAIRMAN MORDAS: The rock wall withstanding, I just
24 felt that the grading of the property isn't such that --

25 BOARD MEMBER DAWKINS: But it really looks to me like

1 - RE: KEITH PANDER -

2 the most he could get moving back is, what, four feet. I
3 don't if he can be in compliance without dropping it down
4 on the lower side of the slope.

5 BOARD MEMBER FINDLEY: Aesthetically, if he moved it
6 back a few feet or close to the house a few feet, it
7 doesn't appear to look any different from the road, so I
8 don't have an issue with it. It doesn't look like an
9 eyesore.

10 BOARD MEMBER MORREALE: It doesn't look like an
11 eyesore.

12 CHAIRMAN MORDAS: It definitely doesn't look like an
13 eyesore.

14 BOARD MEMBER MORREALE: It's very nice from the road.

15 BOARD MEMBER FINDLEY: I have no issue.

16 BOARD MEMBER MORREALE: I think the concern that I
17 have is Mr. Pander took out a building permit before it was
18 either accepted or rejected --

19 BOARD MEMBER DAWKINS: Right.

20 BOARD MEMBER MORREALE: -- and had it delivered.

21 BOARD MEMBER FINDLEY: But that's not what's before
22 us.

23 BOARD MEMBER DAWKINS: But that is being handled
24 separately.

25 BOARD MEMBER FINDLEY: That's not what's before us.

1 - RE: KEITH PANDER -

2 MS. PLATT: That's not what he's requesting of you
3 guys.

4 BOARD MEMBER DAWKINS: He's handling that.

5 BOARD MEMBER FINDLEY: He made a mistake.

6 BOARD MEMBER DAWKINS: So we presume that he's either
7 paying a fine or dealing with the Town or something.

8 BOARD MEMBER FINDLEY: Right. When I don't make any
9 mistakes I'll be ...

10 BOARD MEMBER MORREALE: I'm just not sure if I see, in
11 that picture, the extent of the grade.

12 BOARD MEMBER DAWKINS: Well, you wouldn't. This
13 is ...

14 BOARD MEMBER MORREALE: This is the rock wall here.

15 BOARD MEMBER DAWKINS: That's over by the house.
16 That's way over here. We're talking about a rock wall
17 that's behind here.

18 BOARD MEMBER FINDLEY: Yes, you can see the rock wall
19 in that picture, I believe.

20

21 BOARD MEMBER DAWKINS: So it looks like you can get --

22 BOARD MEMBER MORREALE: Oh, I can see it.

23 BOARD MEMBER FINDLEY: You can see it right here.

24 BOARD MEMBER FINDLEY: Oh, look at this. This is a
25 nice picture. I mean it's a nice color. The metal matches

1 - RE: KEITH PANDER -

2 the siding, matches the house.

3 BOARD MEMBER DAWKINS: My only concern is back here
4 and then level it with wall.

5 BOARD MEMBER FINDLEY: How looks bigger in other
6 pictures.

7 CHAIRMAN MORDAS: So maybe it can be done by hand or
8 with machine. There's not much engineering, you know.
9 Maybe a mason dump load of stone to level it out and then
10 the Town laws would be complied with.

11 BOARD MEMBER DAWKINS: I don't think that's going to
12 buy you what you need. We need how many feet here?

13 CHAIRMAN MORDAS: It's got to be moved back --

14 MR. PANDER: Twelve feet.

15 BOARD MEMBER DAWKINS: Twelve feet. So you're going
16 to drop it down.

17 CHAIRMAN MORDAS: It's pretty level for that part of
18 town.

19 BOARD MEMBER FINDLEY: I mean he's got nice access to
20 his driveway.

21 CHAIRMAN MORDAS: I'm not going to get into the into
22 the --

23 BOARD MEMBER DAWKINS: Yes, I know.

24 CHAIRMAN MORDAS: I try to treat everything on an
25 individual basis. You know, we had Cavanaugh here

1 - RE: KEITH PANDER -

2 previously. That was a different situation in certain
3 regards.

4 I feel this thing could be --

5 BOARD MEMBER DAWKINS: Well, if you come back and --

6 CHAIRMAN MORDAS: And it would still be accessible to
7 the driveway and it would be in compliance with the Town
8 regulations.

9 All right.

10 BOARD MEMBER FINDLEY: Where is the shed in relation
11 to this?

12 BOARD MEMBER MORREALE: I guess it's right here.

13 BOARD MEMBER FINDLEY: Can you show us where the shed
14 is? I think it's right off here.

15 MR. PANDER: That's the corner, like right here.
16 There's like a little pathway that comes up here and then
17 another pathway that comes over there.

18 BOARD MEMBER FINDLEY: So from the edge of this --

19 MR. PANDER: Like two feet, maybe.

20 BOARD MEMBER FINDLEY: Oh, is that it?

21 MR. PANDER: Yeah.

22 BOARD MEMBER FINDLEY: You can't put it over the
23 sidewalk.

24 BOARD MEMBER MORREALE: Can I take a look?

25 BOARD MEMBER FINDLEY: Whatever you want to call that.

1 - RE: KEITH PANDER -

2 What do you want to call that?

3 BOARD MEMBER MORREALE: Patio?

4 BOARD MEMBER FINDLEY: It's not wide enough for me to
5 call it a patio, but whatever you want to call it.

6 I think it's proportional. The aspects are fine.

7 CHAIRMAN MORDAS: Any more questions from the Board
8 for Mr. Pander?

9 BOARD MEMBER DAWKINS: Well, we can close the public
10 hearing.

11 CHAIRMAN MORDAS: Okay.

12 BOARD MEMBER DAWKINS: I make a motion to close the
13 public hearing.

14 BOARD MEMBER MORREALE: I'll second.

15 CHAIRMAN MORDAS: All in favor?

16 BOARD MEMBER DAWKINS: Aye.

17 BOARD MEMBER FINDLEY: Aye.

18 BOARD MEMBER MORREALE: Aye.

19 CHAIRMAN MORDAS: Aye.

20 (The motion was approved and carried.)

21 BOARD MEMBER FINDLEY: Are we going to go through the
22 questions?

23 BOARD MEMBER DAWKINS: No. Steve is looking something
24 up.

25 BOARD MEMBER FINDLEY: Okay.

1 - RE: KEITH PANDER -

2 MR. MOGEL: Yes.

3 BOARD MEMBER FINDLEY: What's the criteria for the
4 mailing, 500 feet?

5 CHAIRMAN MORDAS: There's a lot of houses on that end
6 of the road. They're very tightly packed.

7 BOARD MEMBER FINDLEY: I have a question for you.
8 Which parcel is it?

9 BOARD MEMBER DAWKINS: Lot 1, 6.1.

10 MR. PANDER: It's this one here.

11 BOARD MEMBER FINDLEY: Is this a road?

12 MR. PANDER: They're paper roads, they call them.

13 BOARD MEMBER FINDLEY: Okay. So you get to here. Is
14 this state forest?

15 MR. PANDER: Yes.

16 BOARD MEMBER FINDLEY: And where is the shed, about?

17 MR. PANDER: The house would be, like, right here and
18 then the shed is, like, right there.

19 BOARD MEMBER FINDLEY: And do you own any of these
20 lots?

21 MR. PANDER: No.

22 BOARD MEMBER FINDLEY: This one, this one? You own
23 this one?

24 MR. PANDER: Yes, I own this one, this one and I think
25 this one here.

1 - RE: KEITH PANDER -

2 BOARD MEMBER FINDLEY: What about this whole thing?

3 MR. PANDER: Yes.

4 BOARD MEMBER FINDLEY: And just this parcel is nine
5 acres.

6 MR. PANDER: Yes.

7 BOARD MEMBER FINDLEY: Combined, do you know what it
8 is?

9 MR. PANDER: Twenty-two and a half.

10 BOARD MEMBER FINDLEY: His neighbor is a state forest.

11 CHAIRMAN MORDAS: What?

12 BOARD MEMBER FINDLEY: His neighbor is a state forest.

13 CHAIRMAN MORDAS: Oh, yes.

14 It's a nice lot.

15 BOARD MEMBER FINDLEY: And he owns a bunch of lots
16 there.

17 CHAIRMAN MORDAS: We need to refresh ourselves with
18 some open meeting law variations.

19 (Mr. Mogel examining the law.)

20 MR. MOGEL: We need an affirmative vote of the
21 majority of the full membership. So what that would mean
22 is you'd have to have three votes in order to grant the
23 variance.

24 CHAIRMAN MORDAS: Okay. So can we just proceed to a
25 vote and see where we stand right here?

1 - RE: KEITH PANDER -

2 BOARD MEMBER FINDLEY: Well, if you have a majority --

3 CHAIRMAN MORDAS: And if it's a draw what happens? It
4 goes to when we have a full house here?

5 MR. MOGEL: If it's a draw --

6 BOARD MEMBER DAWKINS: We wait until Georgia comes
7 back?

8 MR. MOGEL: Well, okay. If there's a default denial,
9 but the Board can amend the failed motion and vote on an
10 amendment within the 62 day period.

11 BOARD MEMBER DAWKINS: Okay.

12 MR. MOGEL: You don't have to do a rehearing.

13 So you guys could take a vote. If it's split two, two
14 this evening then the Board can revote. So at the next
15 meeting you could revote when you have a full board.

16 CHAIRMAN MORDAS: All right. Do I have a motion to
17 proceed to a vote?

18 BOARD MEMBER DAWKINS: So moved.

19 CHAIRMAN MORDAS: Second?

20 BOARD MEMBER MORREALE: I'll second it.

21 CHAIRMAN MORDAS: All in favor?

22 BOARD MEMBER DAWKINS: Aye.

23 BOARD MEMBER FINDLEY: Aye.

24 BOARD MEMBER MORREALE: Aye.

25 CHAIRMAN MORDAS: Aye.

1 - RE: KEITH PANDER -

2 (The motion was approved and carried.)

3 CHAIRMAN MORDAS: Before we vote I need to read the
4 requirements for granting area variances, which this is one
5 of them.

6 In making its determination the Zoning Board shall
7 take into consideration the benefit to the Applicant if the
8 variance is warranted as weighed against the detriment to
9 the health, safety and welfare of the neighborhood or
10 community by such grant.

11 In making such determination the Board shall consider
12 whether an undesirable change will be produced in the
13 character of the neighborhood or a detriment to nearby
14 properties will be created by the granting of the area
15 variance.

16 Kent.

17 BOARD MEMBER FINDLEY: No, it's not detrimental.

18 CHAIRMAN MORDAS: Matthew.

19 BOARD MEMBER MORREALE: No.

20 CHAIRMAN MORDAS: Cathy.

21 BOARD MEMBER DAWKINS: No.

22 CHAIRMAN MORDAS: No.

23 Whether the benefit sought by the Applicant can be
24 achieved by some method feasible for the Applicant to
25 pursue other than an area variance.

1 - RE: KEITH PANDER -

2 I'll say yes.

3 Cathy.

4 BOARD MEMBER DAWKINS: Yes.

5 CHAIRMAN MORDAS: Matt

6 BOARD MEMBER MORREALE: Yes.

7 CHAIRMAN MORDAS: Kent.

8 BOARD MEMBER FINDLEY: Yes.

9 CHAIRMAN MORDAS: Whether the requested area variance
10 is substantial.

11 I'll say yes.

12 Cathy.

13 BOARD MEMBER DAWKINS: Yes.

14 CHAIRMAN MORDAS: Matthew.

15 BOARD MEMBER MORREALE: Yes.

16 CHAIRMAN MORDAS: Kent.

17 BOARD MEMBER FINDLEY: No.

18 CHAIRMAN MORDAS: Whether the proposed variance will
19 have an adverse effect or impact on the physical or
20 environmental conditions in the neighborhood or district.

21 Cathy.

22 BOARD MEMBER DAWKINS: No.

23 CHAIRMAN MORDAS: Kent.

24 BOARD MEMBER FINDLEY: No.

25 CHAIRMAN MORDAS: Matthew.

1 - RE: KEITH PANDER -

2 BOARD MEMBER MORREALE: Yes.

3 CHAIRMAN MORDAS: I'll say yes.

4 Whether the alleged difficulty was self-created, which
5 consideration shall be relevant to the decision of the
6 Zoning Board but shall not necessarily preclude the
7 granting of the area variance.

8 Kent.

9 BOARD MEMBER FINDLEY: Yes.

10 CHAIRMAN MORDAS: Matthew.

11 BOARD MEMBER MORREALE: Yes.

12 CHAIRMAN MORDAS: Cathy.

13 BOARD MEMBER DAWKINS: Yes.

14 CHAIRMAN MORDAS: I'll say yes.

15 Okay.

16 BOARD MEMBER FINDLEY: Am I allowed to ask one more
17 question?

18 CHAIRMAN MORDAS: Go ahead, Kent.

19 BOARD MEMBER FINDLEY: Of the Applicant?

20 CHAIRMAN MORDAS: Yes.

21 BOARD MEMBER FINDLEY: If you knew the rules would you
22 have put it someplace else?

23 MR. PANDER: I would have -- I probably wouldn't have
24 got it.

25 BOARD MEMBER FINDLEY: Okay.

1 - RE: KEITH PANDER -

2 CHAIRMAN MORDAS: All right.

3 So the Applicant's request for relief from
4 199.13(c)(2), no accessory structure is located closer to
5 the street than the street wall of the principal structure
6 except in the case of farm buildings.

7 Cathy, how do you vote?

8 BOARD MEMBER DAWKINS: No.

9 CHAIRMAN MORDAS: Kent.

10 BOARD MEMBER FINDLEY: In favor.

11 CHAIRMAN MORDAS: Yes. Kent says yes.

12 Matthew.

13 BOARD MEMBER MORREALE: No

14 CHAIRMAN MORDAS: I'll say no.

15 Okay. Your request for relief from 199-13(c)(2) has
16 been denied.

17 It's a nice accessory structure. I encourage you not
18 to give up it and find a way to locate it on your property
19 in compliance with the Town regulations. I wish you the
20 best of luck.

21 MR. PANDER: Okay.

22 CHAIRMAN MORDAS: And thank you.

23 (Time noted: 7:26 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Keith Pander, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.



ROSEMARY A. MEYER

Date Transcribed: February 23, 2019

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COUNTY OF SULLIVAN : TOWN OF MAMAKATING
ZONING BOARD OF APPEALS

----- X

Patrick Theodore
Area Variance
Tax Map Section 56; Block 5; Lot 3
Neighborhood Residential Zone

----- X

Town Hall
Town of Mamakating
January 31, 2019
7:26 P.M.

ZONING BOARD MEMBERS :

- MATTHEW MORDAS, Chairman
- CATHY DAWKINS, Board Member
- KENT FINDLEY, Board Member
- MATTHEW MORREALE, Board Member
- STEVEN MOGEL, ESQ., Attorney
- KYRA PLATT, Building Department

Also Present: Patrick Theodore, Applicant

JERIC CORPORATION
Court Reporting Services
P.O. Box 385
Narrowsburg, New York 12764
(845) 252-3515

Reported by: Rosemary A. Meyer

1 - RE: PATRICK THEODORE -

2 CHAIRMAN MORDAS: All right. Next on the agenda is
3 Mr. Patrick Theodore.

4 MR. THEODORE: Good evening.

5 CHAIRMAN MORDAS: Please state your case, what you're
6 trying to accomplish here.

7 MR. THEODORE: Sure. Back in May --

8 CHAIRMAN MORDAS: Did you give your residence location
9 to the stenographer, your location?

10 MR. THEODORE: No.

11 My name is Patrick Theodore, 37 North Shore Drive,
12 Wurtsboro.

13 CHAIRMAN MORDAS: Thank you. Please continue.

14 MR. THEODORE: Yep.

15 Back on May 15th, 2018 there was a bad thunderstorm
16 that came through the area here. My garage was crushed by
17 a tree that was brought down in the storm.

18 Basically, right now is I'm looking to replace my
19 garage. I have a company that's going to do it for me.
20 I'm not looking to expand the garage or move it or add
21 anything to it, make it larger or anything, I just want to
22 keep the same. I have a preexisting concrete slab that's
23 still there.

24 In order for me to move the garage, it would cost me a
25 lot of money. And the way my property is situated, I'm on

1 - RE: PATRICK THEODORE -

2 a slope. Right now, my best place to keep it is in the
3 existing place. So like I said, I'm just looking to
4 replace what I had.

5 And, you know, I've been up here five years during the
6 summer. This is my summer home. I get along great with my
7 neighbors. I've never had an issue with my neighbors.
8 We're not going to create any problems. So at this time
9 I'm just requesting that I get the variance approval to
10 replace what I had.

11 BOARD MEMBER FINDLEY: Can I ask a question?

12 CHAIRMAN MORDAS: Go ahead.

13 BOARD MEMBER FINDLEY: Are you staying in the same
14 exact footprint?

15 MR. THEODORE: Yes.

16 BOARD MEMBER FINDLEY: Are you increasing the height?

17 MR. THEODORE: No.

18 CHAIRMAN MORDAS: So dimensionally, it's going to be
19 the same.

20 MR. THEODORE: Yes.

21 BOARD MEMBER FINDLEY: Why are we here?

22 BOARD MEMBER DAWKINS: I have an even bigger question.
23 This garage had been in place in exactly the same location
24 on the same pad since 1925.

25 BOARD MEMBER FINDLEY: Why are we here?

1 - RE: PATRICK THEODORE -

2 MR. THEODORE: Correct.

3 MR. MOGEL: When was it destroyed?

4 MR. THEODORE: May 15th, 2018.

5 BOARD MEMBER FINDLEY: It's two years, right? Without
6 me going back and reading it, he has two years to
7 reestablish.

8 BOARD MEMBER DAWKINS: That's what I thought. That's
9 what it is with a fire.

10 CHAIRMAN MORDAS: In the past I've had a similar
11 situation where the applicant demolished a residence
12 structure without discussing it with the Building
13 Department.

14 BOARD MEMBER FINDLEY: You're probably wrong for doing
15 that, but that doesn't --

16 CHAIRMAN MORDAS: And I'm not going to tell anybody
17 what the outcome was of our decision there. I don't want
18 to color things too prematurely. There is a process to
19 follow.

20 BOARD MEMBER FINDLEY: Agreed. People make mistakes.

21 CHAIRMAN MORDAS: That's all I'm going to say in
22 regards to the building inspector's --

23 BOARD MEMBER FINDLEY: I think even in here --

24 CHAIRMAN MORDAS: -- decision in regards to this.

25 BOARD MEMBER FINDLEY: -- the code is noncomplying

1 - RE: PATRICK THEODORE -

2 buildings. There's a copy of it. I don't know where it's
3 actually from, but it actually says it's a building
4 possessing noncomplying bulk -- which I presume this is,
5 that's why we're here, right?

6 MR. MOGEL: No.

7 BOARD MEMBER FINDLEY: It's not noncomplying?

8 MR. MOGEL: No, it's not noncomplying bulk. That's
9 not coming off the bulk table. It's where it's situated.

10 BOARD MEMBER DAWKINS: Yes. It sits closer to the
11 street than the --

12 MR. MOGEL: Right.

13 BOARD MEMBER DAWKINS: -- primary structure. But
14 again, it's been that way since 1925 --

15 MR. MOGEL: Correct.

16 BOARD MEMBER DAWKINS: -- almost a hundred years.

17 BOARD MEMBER FINDLEY: It's noncomplying now.

18 BOARD MEMBER DAWKINS: I drive by it every day. The
19 pad has not been altered.

20 CHAIRMAN MORDAS: Is the pad sufficient --

21 BOARD MEMBER FINDLEY: Then even the first one,
22 noncompliant buildings may be continued to be continue
23 repaired, structurally altered, moved, reconstructed or
24 enlarged provided that such action does not increase the
25 degree or create any new nonconformity to the district bulk

1 - RE: PATRICK THEODORE -

2 regulations.

3 I'm just saying I'm not sure why this case is in front
4 of us.

5 CHAIRMAN MORDAS: Counsel, you care to weigh in on
6 this?

7 MR. MOGEL: I would have to agree.

8 BOARD MEMBER FINDLEY: I mean assuming that is the
9 only --

10 MR. MOGEL: I mean I'd like to hear from the Building
11 Department.

12 MS. PLATT: Did you say 2015 or 2017?

13 BOARD MEMBER DAWKINS: It was 2017. It was the same
14 day that a tree dropped on my house.

15 CHAIRMAN MORDAS: What date was that?

16 BOARD MEMBER FINDLEY: What year?

17 BOARD MEMBER DAWKINS: May 15.

18 CHAIRMAN MORDAS: May 15, 2017.

19 BOARD MEMBER DAWKINS: Last year. I'm sorry. 2018.

20 BOARD MEMBER FINDLEY: 2018.

21 MR. THEODORE: Yes, 2018.

22 BOARD MEMBER DAWKINS: 2018. It's less than a year.

23 BOARD MEMBER FINDLEY: I mean I didn't see a time
24 frame, actually, in this one, but I do remember reading a
25 time frame somewhere.

1 - RE: PATRICK THEODORE -

2 BOARD MEMBER DAWKINS: It's in the fire part where if
3 you a house burns down you have two years.

4 BOARD MEMBER FINDLEY: Okay.

5 CHAIRMAN MORDAS: So the rest, after the tree fell you
6 demolished what was left of the garage after the tree?

7 MR. THEODORE: I just saw what was left was pretty
8 much a danger. I mean if you drove by, you saw it. I
9 wanted to get it out of there as quickly as possibly.
10 Basically, I just had what was left laying down, I just had
11 it carted away. I didn't know if I was supposed to apply
12 for a permit. That's my mistake. I apologize for that.
13 But I didn't know and I was just trying to get the, you
14 know, what was left out of there as quickly as possible.

15 BOARD MEMBER DAWKINS: In my nonprofessional opinion,
16 it was a public nuisance.

17 BOARD MEMBER FINDLEY: Yes, I mean he probably should
18 have had a demolition permit, but ...

19 MR. MOGEL: That's a matter to take up with the
20 Building Department.

21 BOARD MEMBER FINDLEY: Right, exactly. But that's not
22 why we're here either.

23 MR. MOGEL: Correct.

24 BOARD MEMBER DAWKINS: Okay. So what do we do, Steve?

25 MR. MOGEL: Well, I mean I can give my opinion and the

1 - RE: PATRICK THEODORE -

2 Board can make that determination.

3 BOARD MEMBER FINDLEY: I'm going to make my
4 suggestion.

5 MR. MOGEL: Okay, make your suggestion.

6 BOARD MEMBER FINDLEY: We should have a motion to set
7 a public hearing, but in the meantime, because I don't want
8 to slow him up.

9 BOARD MEMBER DAWKINS: But then he has pay for all
10 those --

11 CHAIRMAN MORDAS: Yes, I don't want him to incur --

12 BOARD MEMBER FINDLEY: He doesn't have to do that if
13 he talks to Mary and Kyra tomorrow or the next day and they
14 agree with what we're saying. If they don't agree with
15 what we're saying, then he has a public hearing set up,
16 ready to go. And if we don't need the public hearing, we
17 don't have a public hearing.

18 MR. MOGEL: What say you, Kyra? We'd like to hear.

19 BOARD MEMBER FINDLEY: Because if ..

20 MS. PLATT: Can I pull the permit file and look at it
21 and you guys chitchat while I get it?

22 BOARD MEMBER DAWKINS: So we'll take a brief little
23 break while you go pull the permit.

24 BOARD MEMBER FINDLEY: Because if you don't set up a
25 public hearing he loses a month.

1 - RE: PATRICK THEODORE -

2 MR. MOGEL: Yes.

3 CHAIRMAN MORDAS: No, I understand that. That's all
4 on the table, Kent.

5 MR. THEODORE: Just one thing, if I could add. You
6 know, I'm not looking for fees, but I also, in the winter,
7 I live in Long Island so for me to travel back and forth is
8 difficult with work.

9 BOARD MEMBER FINDLEY: If you live in Long Island we
10 might have to --

11 MR. THEODORE: Yes.

12 BOARD MEMBER FINDLEY: -- go through the variance
13 process.

14 BOARD MEMBER DAWKINS: Can I ask you?

15 MR. THEODORE: Sure.

16 BOARD MEMBER DAWKINS: When was the citation written?

17 MS. PLATT: I need to pull the file.

18 BOARD MEMBER DAWKINS: Oh, okay.

19 CHAIRMAN MORDAS: Go right ahead.

20 (Ms. Platt was excused to retrieve the
21 file.)

22 MR. MOGEL: My concern is that in the past we past
23 we've referred matters that the Board seemed to, without
24 taking a formal vote, seemed to indicate its preference for
25 it to go back to the Building Department to reevaluate. It

1 - RE: PATRICK THEODORE -

2 seems to me that we haven't had an occasion in which the
3 Building Department reevaluated and felt comfortable in
4 reserving its own decision. That's my main concern here.

5 Unfortunately, the Board, of course, cannot make a
6 decision without a public hearing. I mean I would hope
7 that this applicant --

8 I mean I would state what my opinion is for the
9 record. My opinion is that it falls within 199-51(c)(1)
10 and that --

11 CHAIRMAN MORDAS: I'm looking at (c)(2).

12 MR. MOGEL: Possibly (c)(2). My only concern with
13 (c)(2) is the same, noncompliant bulk is damaged. It's not
14 coming off of the bulk.

15 BOARD MEMBER FINDLEY: Right. But the one above, it
16 seems to cover your concern.

17 MR. MOGEL: The one above it seems to cover it.

18 BOARD MEMBER FINDLEY: Yes.

19 MR. MOGEL: I mean that is my opinion. But let's see
20 if there's anything in the file that would change my
21 opinion.

22 (Ms. Platt returned the meeting with the
23 file.)

24 BOARD MEMBER FINDLEY: I mean even if you increase the
25 height I would say we would need a public hearing.

1 - RE: PATRICK THEODORE -

2 BOARD MEMBER DAWKINS: But you're not planning to
3 increase the height.

4 BOARD MEMBER FINDLEY: No, that's what he said.

5 MR. THEODORE: No.

6 CHAIRMAN MORDAS: There's (d) which is pretty much
7 repairs.

8 MR. MOGEL: Repairs.

9 BOARD MEMBER DAWKINS: What's the date, Kyra, on the
10 violation?

11 MS. PLATT: It wasn't issued. He actually brought it
12 to our attention.

13 BOARD MEMBER DAWKINS: Oh.

14 MR. MOGEL: Okay.

15 BOARD MEMBER MORREALE: I think he was following the
16 steps that Mary laid out for him.

17 BOARD MEMBER DAWKINS: So he was just trying to be
18 compliant.

19 MR. MOGEL: Also, to be honest, the code, it
20 references either nonconforming bulk or nonconforming use.
21 How else would you determine something like compliance with
22 where it's situated, whether closer to the street wall or
23 not. I mean I know that's not necessarily coming off the
24 bulk buck table.

25 BOARD MEMBER DAWKINS: Well, in addition to

1 - RE: PATRICK THEODORE -

2 everything else, it's a lakefront lot. So the garage built
3 in 1925 was conforming with the then norm and the today
4 norm is putting the garage on the street side of the house
5 rather than the lake side of the house.

6 MR. MOGEL: It's my opinion that this falls into
7 199-51(c)(1) and that it's noncomplying to the current bulk
8 regulations, for lack of a better --

9 CHAIRMAN MORDAS: It's excluded from the bulk
10 regulations.

11 MR. MOGEL: Yes, it's noncompliant but that it's
12 preexisting nonconforming and therefore, it can be
13 repaired, it can reconstructed.

14 BOARD MEMBER FINDLEY: Does the lot comply to the
15 current zoning in and of itself?

16 MR. MOGEL: Well, that's not really in front of us.
17 He didn't get cited for that.

18 BOARD MEMBER DAWKINS: What's your question? It's one
19 acre lots.

20 BOARD MEMBER FINDLEY: Well, it just would lead more
21 to this.

22 BOARD MEMBER DAWKINS: But in what way? I mean
23 what ...

24 BOARD MEMBER FINDLEY: Well, what's the zoning in the
25 area? I'm not sure.

1 - RE: PATRICK THEODORE -

2 CHAIRMAN MORDAS: I think it's one acre; right?

3 BOARD MEMBER DAWKINS: It's two acres. It's
4 Neighborhood Residential.

5 CHAIRMAN MORDAS: It's two acres now?

6 BOARD MEMBER DAWKINS: Yes.

7 BOARD MEMBER FINDLEY: So the property doesn't conform
8 either. Okay. And not that I feel that that matters here.
9 I'm just asking.

10 MR. MOGEL: That's my opinion. I mean, again, the way
11 the Board would have to proceed would be to schedule the
12 public hearing. I would just encourage the Building
13 Department to take a close look at that and see whether
14 it's compliant.

15 MS. PLATT: It's actually smaller than what the
16 original garage was, so he's even more in compliance if
17 you're looking at this code.

18 CHAIRMAN MORDAS: That's the only issue I have is is
19 this is a conforming lot, is that an issue.

20 MS. PLATT: No. We actually -- if a lot within a zone
21 doesn't meet that zone's requirements, we would go by, I
22 can't quote the code off the top of my head, sorry, for
23 building on nonconforming lots.

24 MR. MOGEL: Right.

25 MS. PLATT: However, it does look like he's got a lot

1 - RE: PATRICK THEODORE -

2 of road frontage. We would still, if this was an empty lot
3 building a house on it, we would still say you're going to
4 be building based off of the NR Zone's setbacks because you
5 need the road frontage for that area. So that wouldn't
6 matter too much, honestly.

7 CHAIRMAN MORDAS: All right. So we're not dealing
8 with any violations here.

9 MS. PLATT: Technically, no, because we didn't issue
10 one.

11 CHAIRMAN MORDAS: All right.

12 MS. PLATT: I, as a representative for the Building
13 Department, wouldn't see a problem if you guys felt this
14 variance wasn't required because based off this code, he
15 fits.

16 CHAIRMAN MORDAS: All right, Steve. What's our next
17 step if we decide to instruct Mr. Theodore to work strictly
18 with the Building Department to rebuild his garage?

19 BOARD MEMBER DAWKINS: We could just delay everything.
20 Maybe we just not vote.

21 MR. MOGEL: What I'm going to recommend, I think the
22 safest thing would be to schedule a public hearing for next
23 month and then just encourage the Building Department to
24 look at it well in advance. If anybody wants to discuss it
25 with me further, they're welcome to do so.

1 - RE: PATRICK THEODORE -

2 BOARD MEMBER DAWKINS: So the possibility is that the
3 Building Department can make a decision before he does his
4 mailings?

5 MR. MOGEL: Correct. That would be the intention.

6 CHAIRMAN MORDAS: Give Mr. Theodore a strict timeline
7 in regards to when his mailings need to get out, at the
8 last minute.

9 BOARD MEMBER DAWKINS: The drop dead date.

10 MS. PLATT: Ten days before the meeting.

11 BOARD MEMBER DAWKINS: And so you'd have time to make
12 a decision before then.

13 BOARD MEMBER FINDLEY: He could either then appeal
14 their decision; right? Which we still require a public
15 hearing.

16 MR. MOGEL: Yes. Okay. Very good.

17 CHAIRMAN MORDAS: All right. So we might not see you
18 again. If we do. ...

19 MR. THEODORE: Okay. Thank you very much.

20 CHAIRMAN MORDAS: Do I have a motion to schedule a
21 public hearing for Mr. Theodore?

22 BOARD MEMBER FINDLEY: I'll make that motion.

23 BOARD MEMBER MORREALE: I will second that motion.

24 CHAIRMAN MORDAS: All in favor?

25 BOARD MEMBER DAWKINS: Aye.

1 - RE: PATRICK THEODORE -

2 BOARD MEMBER FINDLEY: Aye.

3 BOARD MEMBER MORREALE: Aye.

4 CHAIRMAN MORDAS: Aye.

5 (The motion was approved and carried.)

6 BOARD MEMBER DAWKINS: Good luck.

7 MR. THEODORE: Thank you.

8 CHAIRMAN MORDAS: Is that a tight packed area?

9 BOARD MEMBER DAWKINS: He lives about -- when you to
10 toward Lonnie Town, you go down that hill and you go
11 towards --

12 CHAIRMAN MORDAS: Does he have a lot of neighbors that
13 the mailing is going to be expensive?

14 BOARD MEMBER DAWKINS: Well, here's the map.

15 CHAIRMAN MORDAS: Sometimes the most expensive part
16 with the process is the mailings.

17 MR. THEODORE: Okay. That's not a problem.

18 CHAIRMAN MORDAS: Do due diligence and make sure you
19 have a decision in place before the due date for the
20 mailings.

21 MR. THEODORE: Okay.

22 CHAIRMAN MORDAS: Good luck.

23 MR. THEODORE: Okay. Thank you very much.

24 CHAIRMAN MORDAS: Thank you.

25 Do I have a motion to adjourn the meeting?

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- RE: PATRICK THEODORE -

BOARD MEMBER MORREALE: I'll make that motion.

BOARD MEMBER DAWKINS: I'll second it.

CHAIRMAN MORDAS: All in favor?

BOARD MEMBER DAWKINS: Aye.

BOARD MEMBER FINDLEY: Aye.

BOARD MEMBER MORREALE: Aye.

CHAIRMAN MORDAS: Aye.

(The motion was approved and carried.)

(Time noted: 7:41 p.m.)

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REPORTER'S CERTIFICATION

I, ROSEMARY A. MEYER, a Shorthand Reporter and Notary Public in and for the State of New York, do hereby certify:

That the foregoing transcript is an accurate record of the proceedings in the matter of Patrick Theodore, to the best of my knowledge and belief, having been stenographically recorded by me and transcribed under my supervision.

I further certify that I am in no way related to any of the parties to this action and that I have no personal interest whatsoever in the outcome thereof.



ROSEMARY A. MEYER

Date Transcribed: February 23, 2019

	17:22,23,24,25	8:13	conversation (1) 9:15	8:8;12:7
A	B	care (2) 6:14;9:14	convinced (2) 8:5,20	down (2) 10:3;12:16
able (1) 6:4	back (10) 8:7,16,18,22;10:2, 6:12;3,13;13:5;17:7	carried (4) 5:7,19;14:20;18:2	corner (1) 13:15	draw (2) 17:3,5
accept (1) 4:21	basis (1) 12:25	case (1) 21:6	counsel (1) 4:14	driveway (2) 12:20;13:7
accepted (1) 10:18	behind (2) 9:18;11:17	Cathy (8) 4:10;5:12;18:20; 19:3,12,21;20:12; 21:7	course (1) 8:3	drop (1) 12:16
access (1) 12:19	benefit (2) 18:7,23	Cavanaugh (1) 12:25	created (1) 18:14	dropping (1) 10:3
accessible (1) 13:6	best (1) 21:20	certain (1) 13:2	criteria (2) 7:19;15:3	dump (1) 12:9
accessory (3) 8:10;21:4,17	bigger (1) 12:5	CHAIRMAN (70) 4:2,4,8,10,12,18, 20,24;5:2,6,8,12,14, 18,20;6:3,7,10,13,16, 22,25;7:14;9:14,20, 23;10:12;12:7,13,17, 21,24;13:6;14:7,11, 15,19;15:5;16:11,13, 17,24;17:3,16,19,21, 25;18:3,18,20,22; 19:5,7,9,14,16,18,23, 25;20:3,10,12,14,18, 20;21:2,9,11,14,22	D	E
achieved (1) 18:24	bit (1) 8:12	change (1) 18:12	DAWKINS (40) 4:11,16,25;5:3,11, 15,23;7:5,9,11;8:11; 9:9,25;10:19,23;11:4, 6,12,15,21;12:3,11, 15,23;13:5;14:9,12, 16,23;15:9;17:6,11, 18,22;18:21;19:4,13, 22;20:13;21:8	edge (1) 13:18
acres (1) 16:5	Board (137) 4:3,7,9,11,16,23, 25;5:3,4,5,11,13,15, 16,17,22,23;6:17,18, 21,23,24;7:2,5,9,11, 17;8:11;9:2,6,8,9,12, 13,16,22,25;10:5,10, 14,15,16,19,20,21,23, 25;11:4,5,6,8,10,12, 14,15,18,21,22,23,24; 12:3,5,11,15,19,23; 13:5,10,12,13,18,20, 22,24,25;14:3,4,7,9, 12,14,16,17,18,21,23, 25;15:3,7,9,11,13,16, 19,22;16:2,4,7,10,12, 15;17:2,6,9,11,14,15, 18,20,22,23,24;18:6, 11,17,19,21;19:4,6,8, 13,15,17,22,24;20:2, 6,9,11,13,16,19,21, 25;21:8,10,13	character (1) 18:13	day (1) 17:10	effect (1) 19:19
add (1) 9:14	Brief (1) 5:23	claim (1) 8:19	dealing (1) 11:7	either (2) 10:18;11:6
adverse (1) 19:19	building (2) 9:3;10:17	close (3) 10:6;14:9,12	December (1) 4:22	else (1) 20:22
Aesthetically (1) 10:5	buildings (1) 21:6	closer (6) 6:4;7:20;8:17,22; 9:19;21:4	decision (1) 20:5	encourage (1) 21:17
affirmative (1) 16:20	bunch (1) 16:15	code (1) 8:10	default (1) 17:8	end (1) 15:5
against (2) 5:24;18:8	buy (1) 12:12	color (1) 11:25	definitely (1) 10:12	Engineering (2) 7:22;12:8
ago (1) 8:20	call (6) 4:5;13:25;14:2,5,5; 15:12	Combined (1) 16:7	degree (1) 8:23	enough (1) 14:4
ahead (1) 20:18	can (14) 8:16;10:3;11:18, 21,22,23;12:7;13:13, 24;14:9;16:24;17:9, 14;18:23	community (1) 18:10	delivered (3) 5:24;9:7;10:20	environmental (1) 19:20
alignment (1) 9:2	car (1)	compliance (3) 10:3;13:7;21:19	denial (1) 17:8	even (1) 8:14
alleged (1) 20:4		complied (1) 12:10	denied (1) 21:16	evening (2) 4:2;17:14
allowed (1) 20:16		concern (2) 10:16;12:3	determination (2) 18:6,11	exactly (1) 8:16
amend (1) 17:9		concrete (2) 7:6,7	detriment (2) 18:8,13	examining (1) 16:19
amendment (1) 17:10		conditions (1) 19:20	detrimental (1) 18:17	except (1) 21:6
Appeals (1) 4:3		consider (1) 18:11	difficulty (1) 20:4	existing (1) 7:6
appear (1) 10:7		consideration (2) 18:7;20:5	disagree (1) 8:12	expecting (1) 4:14
Applicant (4) 18:7,23,24;20:19		considerations (1) 7:23	district (1) 19:20	extent (1) 11:11
Applicant's (1) 21:3			disturb (1) 9:18	eyesore (3) 10:9,11,13
approved (4) 5:7,19;14:20;18:2			done (2)	
area (6) 7:24;18:4,14,25; 19:9;20:7				F
aspects (1) 14:6				failed (1) 17:9
away (1) 8:7				farm (1) 21:6
Aye (16) 5:3,4,5,6,15,16,17, 18;14:16,17,18,19;				fashion (1) 6:11
				favor (5) 5:2,14;14:15;

17:21;21:10 feasible (1) 18:24 feel (4) 8:6,9;9:20;13:4 feeling (2) 8:18,19 feelings (1) 8:25 feet (9) 5:25;10:2,6,6; 12:12,14,15;13:19; 15:4 felt (1) 9:24 few (2) 10:6,6 find (1) 21:18 FINDLEY (56) 4:7;5:4,16;6:18,21, 24;7:2;9:13,16,22; 10:5,15,21,25;11:5,8, 18,23,24;12:5,19; 13:10,13,18,20,22, 25;14:4,17,21,25; 15:3,7,11,13,16,19, 22;16:2,4,7,10,12,15; 17:2,23;18:17;19:8, 17,24;20:9,16,19,21, 25;21:10 fine (2) 11:7;14:6 Florida (1) 4:13 forcing (1) 8:2 forest (3) 15:14;16:10,12 four (1) 10:2 front (7) 5:22,25,25;6:4,5; 7:17,21 full (3) 16:21;17:4,15 further (4) 8:13,16,18,22 future (2) 7:25;8:3	grade (1) 11:11 grading (1) 9:24 grant (2) 16:22;18:10 granting (5) 7:19;8:6;18:4,14; 20:7 guess (2) 8:18;13:12 guys (2) 11:3;17:13	K	15:4 mailings (2) 6:8,18 majority (2) 16:21;17:2 making (2) 18:6,11 Mamakating (1) 4:3 many (3) 6:18,19;12:12 mason (1) 12:9 matches (3) 9:17;11:25;12:2 Matt (3) 8:24;9:2;19:5 Matthew (7) 4:4,8;18:18;19:14, 25;20:10;21:12 maybe (3) 12:7,9;13:19 mean (3) 11:25;12:19;16:21 meeting (5) 4:3,5;8:20;16:18; 17:15 MEMBER (126) 4:7,9,11,16,23,25; 5:3,4,5,11,13,15,16, 17,23;6:18,21,24;7:2, 5,9,11,18;8:11;9:2,6, 8,9,12,13,16,22,25; 10:5,10,14,15,16,19, 20,21,23,25;11:4,5,6, 8,10,12,14,15,18,21, 22,23,24;12:3,5,11, 15,19,23;13:5,10,12, 13,18,20,22,24,25; 14:3,4,9,12,14,16,17, 18,21,23,25;15:3,7,9, 11,13,16,19,22;16:2, 4,7,10,12,15;17:2,6, 11,18,20,22,23,24; 18:17,19,21;19:4,6,8, 13,15,17,22,24;20:2, 9,11,13,16,19,21,25; 21:8,10,13 membership (1) 16:21 memory (2) 7:6;9:10 metal (1) 11:25 method (1) 18:24 minimize (1) 8:23 minute (2) 4:16,16 minutes (1) 4:22 miscellaneous (1)	8:4 mistake (1) 11:5 mistakes (1) 11:9 Mogel (9) 4:15,19,20;15:2; 16:19,20;17:5,8,12 moment (1) 4:14 money's (1) 7:23 months (1) 8:20 MORDAS (70) 4:2,4,8,10,12,18, 20,24;5:2,6,8,12,14, 18,20;6:3,7,10,13,16, 22,25;7:14;9:14,20, 23;10:12;12:7,13,17, 21,24;13:6;14:7,11, 15,19;15:5;16:11,13, 17,24;17:3,16,19,21, 25;18:3,18,20,22; 19:5,7,9,14,16,18,23, 25;20:3,10,12,14,18, 20;21:2,9,11,14,22 more (3) 7:2;14:7;20:16 MORREALE (29) 4:9,23;5:5,13,17; 9:2,6,8,12;10:10,14, 16,20;11:10,14,22; 13:12,24;14:3,14,18; 17:20,24;18:19;19:6, 15;20:2,11;21:13 most (1) 10:2 motion (10) 4:21,23;5:7,9,19; 14:12,20;17:9,16; 18:2 move (1) 5:11 moved (5) 8:21,21;10:5; 12:13;17:18 moving (1) 10:2 much (2) 8:13;12:8 myself (1) 7:18
G	H	L		
Generally (1) 7:17 gentlemen (1) 4:2 Georgia (2) 4:12;17:6 goes (1) 17:4 Good (1) 4:2	half (1) 16:9 hand (1) 12:7 handled (1) 10:23 handling (1) 11:4 happens (1) 17:3 hardship (1) 7:24 health (1) 18:9 hearing (4) 5:9;6:11;14:10,13 heritage (1) 8:4 honest (1) 8:11 house (12) 6:2,5;7:21;8:17,22; 9:17,19;10:6;11:15; 12:2;15:17;17:4 houses (1) 15:5	kind (1) 7:19 knew (1) 20:21		
	I	ladies (1) 4:2 last (1) 8:20 law (2) 16:18,19 laws (1) 12:10 level (6) 7:24;8:5,23;12:4,9, 17 little (5) 8:12,18,22,22; 13:16 load (1) 12:9 local (1) 6:10 locate (1) 21:18 located (1) 21:4 look (8) 7:21,25;10:7,8,10, 12;11:24;13:24 looking (1) 14:23 looks (4) 9:16,25;11:21;12:5 lot (4) 7:23;15:5,9;16:14 lots (2) 15:20;16:15 lower (1) 10:4 luck (1) 21:20	M	
	J	machine (1) 12:8 mailing (1)		
	January (1) 4:4 job (1) 8:8		N	
			nearby (1) 18:13 necessarily (1) 20:6 need (5) 12:12,12;16:17,20; 18:3	

neighbor (2) 16:10,12	11;10:1,17;11:1; 12:1,14;13:1,15,19, 21;14:1,8;15:1,10,12, 15,17,21,24;16:1,3,6, 9;17:1;18:1;19:1; 20:1,23;21:1,21	8:15 proceed (2) 16:24;17:17 produced (1) 18:12 properties (1) 18:14 property (3) 7:22;9:24;21:18 proportional (1) 14:6 proposed (1) 19:18 public (5) 5:9;6:11,14;14:9, 13 pursue (1) 18:25 pushed (1) 8:7 put (4) 7:7;8:16;13:22; 20:22	21:3,15 requested (1) 19:9 requesting (1) 11:2 requirements (1) 18:4 restate (1) 5:21 revote (2) 17:14,15 right (19) 4:18;5:20;6:7,16, 22,25;7:13;10:19; 11:8,23;13:9,12,14, 15;15:17,18;16:25; 17:16;21:2 road (8) 7:3,4,5;8:7;10:7, 14;15:6,11 roads (1) 15:12 rock (6) 9:18,19,23;11:14, 16,18 roll (1) 4:5 rules (2) 5:25;20:21	signed (2) 6:15,16 similar (1) 8:19 site (1) 7:14 siting (1) 7:15 situate (1) 6:4 situation (2) 7:20;13:2 size (1) 9:9 slope (3) 8:15,15;10:4 someplace (1) 20:22 sought (1) 18:23 speak (1) 6:14 speaking (1) 7:18 split (1) 17:13 stand (1) 16:25 start (1) 4:5 started (1) 4:19 state (3) 15:14;16:10,12 stay (1) 8:9 step (1) 5:21 Steve (3) 4:14,20;14:23 stick (1) 8:2 still (3) 4:13;8:8;13:6 stone (6) 7:8,9,10,12,13;12:9 street (4) 6:5;7:21;21:5,5 structure (6) 7:25;8:7,10;21:4,5, 17 substantial (1) 19:10 supplied (1) 6:7 sure (3) 7:3;8:12;11:10 swamp (1) 8:2
O	paper (1) 15:12 parcel (2) 15:8;16:4 part (1) 12:17 particular (1) 9:17 party (1) 4:19 pathway (2) 13:16,17 Patio (2) 14:3,5 paying (1) 11:7 people (1) 7:17 period (1) 17:10 permit (2) 9:3;10:17 physical (1) 19:19 picture (4) 7:3;11:11,19,25 pictures (2) 7:4;12:6 place (1) 7:24 placement (2) 8:8,25 PLATT (4) 6:9,12,15;11:2 Please (1) 5:21 pm (1) 21:23 podium (1) 5:21 preclude (1) 20:6 prefab (1) 7:12 Present (3) 4:9,20;5:20 presume (1) 11:6 pretty (1) 12:17 previously (1) 13:2 principal (1) 21:5 probably (1) 20:23 problem (1)	R rather (1) 9:19 RE (18) 4:1;5:1;6:1;7:1; 8:1;9:1;10:1;11:1; 12:1;13:1;14:1;15:1; 16:1;17:1;18:1;19:1; 20:1;21:1 reached (1) 8:5 read (1) 18:3 real (1) 7:23 really (3) 7:15;8:9;9:25 refresh (3) 7:6;9:9;16:17 regarding (2) 7:20;8:10 regards (5) 7:15,19;8:6;9:21; 13:3 regulations (5) 5:25;7:20;8:9; 13:8;21:19 rehearing (1) 17:12 rejected (1) 10:18 relation (1) 13:10 relevant (1) 20:5 relief (4) 7:19;8:6;21:3,15 request (2)	S safety (1) 18:9 same (1) 9:20 satisfaction (1) 6:8 second (6) 4:24,25;5:13; 14:14;17:19,20 self-created (1) 20:4 separately (1) 10:24 set (1) 7:12 shall (4) 18:6,11;20:5,6 shed (10) 5:24;6:4;7:16,25; 8:8;9:4;13:10,13; 15:16,18 sheds (1) 7:20 show (1) 13:13 side (1) 10:4 sidewalk (1) 13:23 siding (1) 12:2	talking (1)
P			T	
packed (1) 15:6 pad (4) 7:7,7,10,11 PANDER (50) 4:1;5:1,10,20,24; 6:1,6,7,13,17,20;7:1, 8,10,13;8:1;9:1,3,5,7,				

11:16 Thirty-two (2) 6:20,21 three (1) 16:22 tightly (1) 15:6 timely (1) 6:11 today (1) 8:13 took (1) 10:17 topography (1) 7:22 Town (6) 8:9;11:7;12:10,18; 13:7;21:19 treat (1) 12:24 trees (2) 8:4,4 try (1) 12:24 trying (1) 7:24 Twelve (2) 12:14,15 Twenty-two (1) 16:9 two (4) 8:20;13:19;17:13, 13		2 (1) 8:21 20 (3) 9:11,12,13 2018 (1) 4:22 2019 (1) 4:4		
	W			
	wait (3) 4:16,16;17:6 wall (11) 6:2,5;7:21;9:18,19, 23;11:14,16,18;12:4; 21:5 warranted (1) 18:8 way (4) 8:10;9:20;11:16; 21:18 weighed (1) 18:8 Welcome (1) 4:3 welfare (1) 18:9 What's (4) 9:9;10:21,25;15:3 whole (1) 16:2 wide (1) 14:4 wish (1) 21:19 within (2) 8:9;17:10 without (1) 10:3 withstanding (1) 9:23 worse (1) 8:14		3	
			31st (1) 4:4	
			5	
			500 (1) 15:4	
			6	
			6.1 (1) 15:9 62 (1) 17:10	
			7	
			7:26 (1) 21:23	
	U			
undesirable (1) 18:12 up (6) 5:21;6:15,16; 13:16;14:24;21:18 useful (1) 8:3 utility (1) 7:25				
	Y			
	yard (1) 6:4 yesterday (1) 8:14			
	Z			
	Zoning (5) 4:3;5:21;7:20; 18:6;20:6			
			1	
variance (8) 6:3;16:23;18:8,15, 25;19:9,18;20:7 variances (1) 18:4 variations (1) 16:18 vote (7) 16:20,25;17:9,13, 17;18:3;21:7 votes (1) 16:22 voting (1) 7:18				
	1 (2) 8:21;15:9 12 (4) 5:25;9:11,12,13 199.13c2 (1) 21:4 199-13c2 (1) 21:15			
			2	