

**MANALAPAN ZONING BOARD OF ADJUSTMENT**  
**MINUTES OF THE REGULAR MEETING**  
**Thursday, June 6, 2024**  
**TOWNSHIP OF MANALAPAN**  
**Manalapan, NJ 07726**  
**Public In-Person Meeting**

Chairman Leviton called the meeting to order with the reading of the Open Public Meetings Act at 7:30 p.m., followed by the salute to the flag.

Board Secretary, Janice Moench, took the roll call of the Board

In attendance at the meeting: Robert Gregowicz, Michael Wechsler, Adam Weiss, Basil Mantagas, Daniel Pochopin, John Harrington, Stacey Klompus, Stephen Leviton

Absent from the meeting: David Schertz, Josh Shalika

Also, present Albert Marmero, Zoning Board Attorney  
Brian Boccanfuso, Zoning Officer/Administrative Officer/PE  
Janice Moench, Recording Secretary/Asst. Administrative Officer

*Chair Leviton acknowledged the presence of Ms. Ilona Hofmann, of the Zoning Office. Ms. Hofmann compiles the ZCCO reports.*

**MINUTES:**

A Motion was made by Mr. Gregowicz, Seconded by Mr. Wechsler, to approve the Minutes of **May 16, 2024** as written.

Yes: Gregowicz, Wechsler, Mantagas, Pochopin, Harrington, Klompus, Leviton

No: None

Abstain: None

Absent: Schertz, Shalika

Not Eligible: Weiss

**RESOLUTIONS:**

A Motion was made by Mr. Wechsler, Seconded by Mr. Pochopin to approve the Resolution of memorialization for **Application ZBE2409- Stillman/Resker**

Yes: Wechsler, Mantagas, Pochopin, Leviton  
No: None  
Abstain: None  
Absent: Schertz, Shalika  
Not Eligible: Weiss, Gregowicz, Harrington, Klompus

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**PUBLIC HEARING:**

**Application No: ZBE2420**

Applicant: Glenn Adamo  
Proposal: Legitimize pool equipment ( side yard setback)  
Request: Bulk relief  
Location: 33 Ivanhoe Dr.~ 301/26  
Zone: R20

The Applicant is proposing to legitimize the location of pool equipment (pool filter and heater) that is located within the side yard setback for the Applicant’s proposal, the following variance and waiver relief is required:

- a. **§208-8.A** - No private swimming pool or any equipment and/or appurtenance thereto shall be constructed, installed, or maintained within 10 feet of any side or rear lot lines, whereas the existing pool equipment is setback approximately 5 feet from the easterly side property line.

The Applicant appeared before the Board and was represented by Andrew Ball, Esq. Mr. Marmero swore in Mr. Glenn Adamo.

The Applicant explained that the pool and the pool equipment have existed in this location for 27 years. He further explained that the existing location of the pool equipment is ideal due to the existing screening that prevents visibility from neighboring properties.

The Applicant indicated the current location of the pool equipment enhances the visual element and the aesthetics of the surrounding area as the pool equipment cannot be seen.

The Applicant made it clear that there is no hardship claim, so this would be a c(2)/flex variance argument.

The Applicant indicated that when he began the process to sell the property, many other zoning deficiencies were discovered, and all deficiencies and non-conformities have been corrected except for this proposed variance involving the location of the pool equipment.

The Applicant indicated that the pool equipment was installed by his pool contractor when the pool was installed with proper permits 27 years ago. The Applicant testified that little noise was produced by the pool equipment.

The Applicant presented and described the following exhibits:

- Exhibit A-1 - Survey of Property Showing Setbacks
- Exhibit A-2 - Series of Photographs of the Property

Chair Leviton opened the meeting to the public for questions or comments regarding the Application.

Michelle Loney, of 31 Ivanhoe Drive was sworn in by Mr. Marmero. Ms. Loney indicated that she is a neighbor and the pool equipment has never presented any issue to her, even when the landscape screening was not fully developed as it is today. She stated that she cannot see or hear the pool equipment from her property.

Michele Calice of 35 Ivanhoe Drive was sworn in by Mr. Marmero. Ms. Calice stated that she supports her neighbor's variance application. She also indicated she felt it was unfair that these improvements were approved in the past and are now becoming an issue. The Board provided clarification to Ms. Calice and indicated that this is an issue because the location of the pool equipment was **never** approved or permitted

Mr. Marmero listed the relief being sought and the conditions as follows:

- Should the heater/pool equipment be replaced it will be relocated into a conforming location (minimally 10 feet from the rear and side property lines).
- Upon the death of the shrubbery/screening around the equipment be replaced so the existing screening is always in place.

A Motion of approval was by made by Mr. Weiss to approve the Application, Seconded by Mr. Mantagas for application ZBE2420~Adamo.

Yes: Gregowicz, Wechsler, Weiss, Mantagas, Pochopin, Harrington, Leviton  
No: None  
Abstain: None  
Absent: Schertz, Shalika  
Not Eligible: Klompus

*Mr. Marmero swore in the Board Professionals; Planner, Jennifer Beahm and Engineer Danny Lopez sitting in got Jordan Rizzo.*

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**Application No: ZBE2421**

Applicant: Robert & Melissa Belovin  
Proposal: Legitimize driveway (side yard setback)  
Request: Bulk relief  
Location: 12 Saratoga Dr.~ 1505/6  
Zone: R20

Robert Belovin and Melissa Belovin of 12 Saratoga Dr. were present and sworn in by Mr. Marmero.

The Applicant explained that the driveway was expanded without permits and was apologetic for doing so. He further explained the main reason for the installation of this driveway was for safety, as Saratoga Drive is used as a cut-through which creates fast-moving traffic. The Applicant indicated that the driveway expansion was a necessary area for the safety of his children as they cannot be in the street.

There was discussion about an improvement in the rear of the property that appears to be some type of stoned patio. The Applicant indicated that this is not a patio and would be removed as a condition of any approval granted.

There was also discussion about what appeared to be additional sheds, with one in the rear of the property and one in the front of the property, but the Applicant indicated that these were temporary plastic structures that would be removed as a condition of any approval granted.

The Applicant explained he has five children and when he moved to Saratoga Drive, he learned people used the street as cut-through and

speed around the bend. Mr. Belovin said he witnessed a school bus lose control, due to slippery conditions, and crash into a telephone pole. Mr. Belovin felt it was best to expand the driveway so he would be able to fit all vehicles on the driveway and not in the street.

The Applicant indicated that the driveway promotes the health, safety, and general welfare of the surrounding area, primarily as it enhances the safety of his property. The Applicant indicated that the driveway does not create any negative impact to the surrounding area.

Mr. Gregowicz explained he was reviewing the pictures submitted, and the driveway expansion looks like it can be used to drive a vehicle into the rear shed that looks more like a garage. The driveway leads directly to the structure. The Applicant explained that was not the case.

Mr. Weiss voiced concerns that someone could potentially trip. He asked the Applicant if there was a reason why the apron of the driveway was not expanded with the rest of the driveway. The Applicant thought he was not permitted to make any improvements to the curb. The Applicant explained he has resided in the home for 21 years and no person has ever tripped or fallen.

Mr. Boccanfuso further explained to Board there was a capital improvement project on Saratoga within the last year or two. This improvement included the removal and replacement of aprons to allow for the roadway to be paved. It is typical practice, if there is a non-compliant driveway, the capital improvement project will only be replaced to the original complaint status.

Chair Leviton explained to the Applicant, that although there have been no complaints, the Board needs to consider the encroachment in perpetuity. There may come a time when a future owner may have impact on the neighboring properties.

Chair Leviton opened the meeting to the public for questions or comments regarding the Application.

A Motion of approval was by made by Mr. Weiss to approve the Application, Seconded by Mr. Pochopin for application ZBE24212~Belovin

Yes: Gregowicz, Wechsler, Weiss, Mantagas, Pochopin, Harrington  
No: Leviton  
Abstain: None  
Absent: Schertz, Shalika  
Not Eligible: Klompus

**Application No.: ZBE2401**

Applicant: 191 Highway 9, LLC  
Proposal: Existing bank to be converted to retail space  
Request: D Variance relief (use)  
Location: 191 Hwy 9 ~1802/1  
Zone: OP (Office Professional)

***Mr. Marmero stated Mr. Weiss an Mr. Mantagas have certified that they have read the transcript of the May 2, 2024 proceedings. Furthermore, they have provided certifications that allows them to participate in the continuation of the application.***

Please see the attached transcript by AB Court Reporting, LLC

Chair Leviton opened the meeting to the public for questions or comments. Seeing there was none, Chair Leviton closed public

**ADJOURNMENT:**

A Motion was offered by Mr. Weiss to adjourn the meeting at 10:50PM. All were in favor and none opposed.

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Respectfully Submitted,

Janice Moench  
Recording Secretary

RECORDING OF THE ZONING BOARD OF ADJUSTMENT IS AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.

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TOWNSHIP OF MANALAPAN ZONING BOARD  
COUNTY OF MONMOUTH - STATE OF NEW JERSEY

REGULAR MEETING FOR:

191 HIGHWAY 9, LLC  
BLOCK 1802, LOT 1  
ZONE OP (OFFICE PROFESSIONAL)

APPLICATION NO. ZBE2401

MANALAPAN TOWN HALL  
COURTROOM  
120 ROUTE 522  
MANALAPAN, NEW JERSEY 07726

THURSDAY, JUNE 6, 2024  
7:30 P.M.

TRANSCRIPT OF PROCEEDINGS

PUBLIC HEARING  
- CONTINUED -

AB COURT REPORTING, LLC  
Certified Court Reporters  
26 Algonquin Terrace  
Millstone Township, New Jersey 08535  
Tel: (732)882-3590  
angelabuonocsr@gmail.com

1 BOARD MEMBERS PRESENT:

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STEVE LEVITON, Chairman

3

ROBERT GREGOWICZ, Vice-Chairman

4

JOHN HARRINGTON

5

STACEY KLOMPUS

6

BASIL MANTAGAS

7

DANIEL POCHOPIN

8

MICHAEL WECHSLER

9

ADAM WEISS

10

11

12 BOARD CONSULTANTS AND STAFF PRESENT:

13

ALBERT MARMERO, ESQUIRE, Board Attorney  
MARMERO LAW, LLC

14

DANNY LOPEZ, P.E., Board Engineer  
CME Associates

15

JENNIFER BEAHM, P.P., AICP, Board Planner  
Leon S. Avakian, Inc.

16

BRIAN BOCCANFUSO, Zoning Officer/Administrative Officer  
Township of Manalapan

17

JANICE MOENCH, Assistant Administrative Officer/  
Recording Secretary  
Township of Manalapan

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23 STENOGRAPHICALLY REPORTED BY:

24 ANGELA BUONANTUONO, CCR, RPR  
License 30XI00233100

25



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

2

HEILBRUNN PAPE, LLC

3 BY: KENNETH L. PAPE, ESQUIRE

516 State Highway 33

4 Millstone Township, New Jersey 08535

T: (732)-679-8844

5 F: (732)-679-6554

Email: kpape@hpnjlaw.com

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--Counsel for the Applicant

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16 A L S O P R E S E N T:

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DOUGLAS SITAR

18 Sitar Realty Company

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WITNESSES

PAGE

JOHN BUCKLEY Vookum Media Group	25
GARY W. DEAN, P.E., P.P. Dolan & Dean Consulting Engineers, LLC	69

PUBLIC COMMENTS/QUESTIONS:

<u>NAME</u>	<u>ADDRESS</u>	<u>PAGE</u>
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None.

E X H I B I T S

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<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-1	Floor Plans	11
A-2	Security Contract	23
A-3	Colored Aerial Photograph	71
A-4	Rendered Site Plan	73
A-5	Colored Aerial Photograph with tenant details	76
A-6	Photograph of street-view	81
A-7	Photograph of proposed sign	82

1 (Time noted, 8:25 p.m.)

2 - - -

3 CHAIRMAN LEVITON: I will call back  
4 Application Number 2401, 191 Highway 9, LLC. And on  
5 behalf of the applicant, the esteemed Mr. Pape.

6 How are you, sir.

7 ATTORNEY PAPE: Thank you, sir.

8 ATTORNEY MARMERO: Mr. Chair, could I  
9 just indicate for the record that both Mr. Weiss and  
10 Mr. Mantagas have certified that they've reviewed  
11 the transcript and/or listened to the hearing, and  
12 they've provided certifications which does allow  
13 them to participate in this continuation this  
14 evening.

15 CHAIRMAN LEVITON: Outstanding.

16 MEMBER WEISS: I read the complete  
17 transcript.

18 ATTORNEY PAPE: Thank you.

19 MEMBER MANTAGAS: Thank you.

20 CHAIRMAN LEVITON: I have seen the  
21 document that they have signed indicating as much.  
22 And we thank Mr. Marmero for pointing it out, and  
23 for our board members, Mr. Weiss and Mr. Mantagas,  
24 for doing their due diligence.

25 Mr. Pape.

1 ATTORNEY PAPE: Yes, sir.

2 CHAIRMAN LEVITON: We want to indicate  
3 that you represent the owners of the property, not  
4 the proposed tenant who we had before us the last  
5 time you were here about a month ago.

6 And we asked you to return and we  
7 charged you to do some things. And we welcome you  
8 back, sir. We ask you to pick up where you left off  
9 and tell us where we are.

10 ATTORNEY PAPE: Thank you,  
11 Mr. Chairman.

12 I wanted to make one comment before I  
13 started. In May of 1987, I interviewed a young  
14 attorney and hired him and he worked with me for the  
15 next six years, his name was Dennis Galvin, and we  
16 became the closest of friends. I hired him out of  
17 law school.

18 CHAIRMAN LEVITON: I don't know if any  
19 of the other members of the board remember  
20 Mr. Galvin. Bob, do you? You might have been the  
21 only one. No one else?

22 Janice certainly does. Of course,  
23 Jennifer and Brian do. He's a great friend of this  
24 board.

25 ATTORNEY PAPE: It was nice to hear

1 that.

2 CHAIRMAN LEVITON: Yes. And did you  
3 know Mr. Muñoz as well? Yes. Very sad.

4 Okay, Mr. Pape.

5 ATTORNEY PAPE: When we were here last,  
6 the board asked -- we had a prepared presentation.  
7 We didn't get into that prepared presentation. We  
8 deferred to the board's inquiry about the tenants'  
9 business and we began there. And Mr. Buckley, who  
10 is the principal of the tenant, described his  
11 business.

12 There came a point where I think the  
13 board's professionals and the board members realized  
14 that what he was testifying to as his proposed  
15 business operation exceeded the description of the  
16 business that was in my legal notice. And although  
17 his testimony became part of the record, it was  
18 agreed that we could not ask this board for relief  
19 without amending the legal notice and republishing.

20 I did do a revised legal notice. The  
21 legal notice, I would like to read a portion into  
22 the record. I think it is very important that it  
23 become part of the record. And it defines what the  
24 uses are that Mr. Buckley, as a tenant, is looking  
25 to operate at the property.

1                   CHAIRMAN LEVITON: Mr. Pape, let me  
2 ensure -- never mind, you have a court reporter.  
3 It's a moot point because it's being transcribed  
4 by...

5                   ATTORNEY PAPE: Are you hearing?

6                   CHAIRMAN LEVITON: We hear you.

7                   ATTORNEY PAPE: And they're all me?

8                   CHAIRMAN LEVITON: Yes. We hear you.

9                   ATTORNEY PAPE: After Mr. Buckley  
10 described his business, I had read what he wrote --  
11 I read what he said, then I interviewed him further  
12 and we put together a legal notice that identified  
13 the uses that he is requesting of this board.

14                                 And the legal notice that we  
15 re-published and which your board has now taken --  
16 has marked into evidence is, "The applicant proposes  
17 to repurpose the existing bank building and site to  
18 conduct the following business activities:

19                                 A, on-site and online wholesale and  
20 retail sales of jewelry, watches, and parts,  
21 together with the administrative support offices  
22 that are relating to same;

23                                 B, is photography, including video and  
24 paid authentication and appraisal services for  
25 watches and jewelry;

1                   And C, is participation/monitoring of  
2 chat groups and social media platforms that exist  
3 for the sale, promotion and marketing of watches and  
4 jewelry;

5                   D, is creation and broadcasting  
6 podcasts, which may include interviews of  
7 representatives of companies and other persons in  
8 the watch and jewelry industry, which broadcasts may  
9 be for informational and/or promotional purposes for  
10 the applicant's business."

11                   Those are the uses that we're asking  
12 this board to consider.

13                   I have Mr. Buckley here. If the board  
14 wishes to hear anything further from him, he is here  
15 and he's available for testimony this evening.

16                   We were also asked to provide a floor  
17 plan of the inside of the building. And the floor  
18 plan will be presented a little bit later when Gary  
19 Dean, who is our professional engineer and planner  
20 testifies. But I do have handouts and with  
21 permission, I can hand those out.

22                   CHAIRMAN LEVITON: Absolutely. And so  
23 that the board knows, the floor plan was not  
24 submitted to the office; it has not been reviewed by  
25 our professionals. And whether or not we were going



1 to proceed this evening became an issue because of  
2 that.

3 And I made the executive decision to  
4 allow the presentation to commence this evening with  
5 the floor plan that is being distributed and is to  
6 be presented as an exhibit.

7 ATTORNEY MARMERO: And, for the  
8 record, since this wasn't submitted ahead of time  
9 but is now, we'll call this Exhibit A-1 for  
10 Applicant 1.

11 ATTORNEY PAPE: That's fine.

12

13 (Exhibit A-1, Floor Plans, was marked  
14 for identification.)

15

16 ATTORNEY PAPE: I appreciate that the  
17 all board members took the extra step of reviewing  
18 the transcript and qualifying whether it needed to  
19 qualify, and appreciate the board taking  
20 jurisdiction of the application as we presented it.

21 At the end of the meeting the last  
22 time, you asked, Mr. Chairman asked that we confirm  
23 that we had heard your message and that we would  
24 respond to it. The message that I took home and  
25 reviewed with the property owner was that the

1 property must have a sidewalk along the frontage  
2 along Route 9.

3 And I will make the statement on the  
4 record, we've -- we will have a sidewalk across the  
5 front of the property, across the entire frontage of  
6 our property. We don't have an issue with that.

7 We also indicated that the pneumatic  
8 tube system was to be made inoperable or dismantled.  
9 I'd ask that we be relieved of the vasectomy --  
10 vascular, vascular surgery; that we don't have to go  
11 through the building to pull all of the tubing out,  
12 but that we dismantle it.

13 We can cover it from the outside. We  
14 have no intentions of using it. We can make it so  
15 it's inoperable, but would like to not have to tear  
16 the whole tube system out of the structure.

17 PLANNER BEAHM: Can I just ask why?

18 ATTORNEY PAPE: Because it's in the  
19 brick walls. It's up through the ceiling across the  
20 building.

21 BOARD PLANNER: Fair enough.

22 ATTORNEY PAPE: There's a lot to it.

23 The third was that the sign that was  
24 there and the pylon-styled sign was unacceptable; a  
25 monument sign was required.

1                   We have a monument sign to present to  
2 you for your consideration this evening. We  
3 accepted that the pylon sign is coming down.

4                   CHAIRMAN LEVITON: Mr. Pape, before we  
5 go further, I was rather curt and I apologize for  
6 that behavior. It was unbecoming and it was -- I  
7 don't know if it was unprofessional, but it was  
8 certainly something I regretted and I appreciate  
9 your consideration and the concessions that your  
10 client has made.

11                  ATTORNEY PAPE: Mr. Chairman, I  
12 appreciated the efficiency with which you delivered  
13 that message.

14                  CHAIRMAN LEVITON: Thank you, sir.

15                  ATTORNEY PAPE: You're welcome.

16                  So this evening Douglas Sitar is here,  
17 he is the owner of the property. He and his brother  
18 are the owner of the property. I did not intend to  
19 call him, but I can tell you that each and every  
20 representation that is made, we understand is a  
21 commitment on the property owner.

22                  The tenant is the tenant. Hopefully  
23 the tenant will be there for a long time if this  
24 board allows him to do so, but the landlord is the  
25 permanent party. The relief that we're asking of

1 you would be relief that is imposed on them, the  
2 property owner.

3 And the property owner is ready to tell  
4 you, and I can tell you this, any conditions, any  
5 requirements that you impose on the property owner,  
6 it's the landlord's responsibility to impose them on  
7 the tenant. We accept that responsibility.

8 PLANNER BEAHM: Mr. Chairman, I just  
9 have a couple questions as a follow-up from the last  
10 meeting.

11 CHAIRMAN LEVITON: Yes.

12 PLANNER BEAHM: So there was testimony  
13 presented by the tenant that this was not going to  
14 be a jewelry exchange except for there was content  
15 on social media saying that they can't wait for this  
16 to be a jewelry exchange. So I just want the record  
17 cleared up.

18 ATTORNEY PAPE: Sure.

19 PLANNER BEAHM: Is this, like --  
20 you're not asking for us to make this a jewelry  
21 exchange?

22 ATTORNEY PAPE: In October of 2023  
23 there was some broadcast by Mr. Buckley that he was  
24 looking forward to having a jewelry exchange. It  
25 became crystal clear to him that that was not what

1 was permitted.

2           On the record, he indicated, and I will  
3 just speak for the landlord, the property owner,  
4 there will not be an exchange; there will be a  
5 single-tenant operating from this property.

6           This is not an exchange. There will be  
7 no multiple sales taking place in the building.

8           PLANNER BEAHM: In addition to that,  
9 there was some inquiry from some concerned residents  
10 that there were -- there was gambling taking place  
11 in the facility after hours, in the evening hours,  
12 on the premises. And quite honestly, there was  
13 YouTube footage to that effect as well.

14           So I would just ask that it be on the  
15 record, that there being no gambling permitted on  
16 site.

17           ATTORNEY PAPE: Ms. Beahm, I  
18 appreciate the opportunity to make that statement on  
19 the record; there will be no gambling activity at  
20 all on the site.

21           MEMBER WEISS: Can we also add to that  
22 drug use, please?

23           PLANNER BEAHM: 100 percent.

24           MEMBER WEISS: Thank you.

25           ATTORNEY PAPE: No gambling activity

1 and no drug use on the premises. Acceptable.

2 PLANNER BEAHM: There were also  
3 concerns about the products, about that there were  
4 some videos, which quite honestly I saw, where there  
5 was some purchase of merchandise in the back of a  
6 pickup truck in a parking lot, and that is not what  
7 is being presented here.

8 So I just want to make sure that what  
9 is here is officially a high-end situation. I  
10 cannot imagine a high-end Rolex dealer buying a  
11 watch out of the back of a pickup truck in a parking  
12 lot behind a shopping center.

13 ATTORNEY PAPE: I, personally, have  
14 not seen those videos that you've been describing,  
15 but I can stipulate that there will be no business  
16 activities at all conducted anywhere except inside  
17 the four corners of the building.

18 MEMBER WEISS: One thing, if I could  
19 ask, Mr. Pape, we're referring to podcasts, I think  
20 we need to call it what it actually is, that is  
21 Instagram, that is YouTube videos.

22 PLANNER BEAHM: Tik-Tok.

23 MEMBER WEISS: Tik-Tok, big time.

24 PLANNER BEAHM: Yep.

25 MEMBER WEISS: It's not podcasts.

1 Podcasts is an audio program, like a serial program  
2 that comes out on a predetermined basis. What we  
3 have here, I think, is more of  
4 social-media-influencer types, more like Pawn Stars  
5 than Antiques Road Show.

6 And so I think that when we call this a  
7 podcast, we need to actually talk about what we plan  
8 to do.

9 For example, in your drawing, Item  
10 Number 6 is called a "podcast area." For a podcast,  
11 all you need is a microphone because there's no  
12 video or anything like that.

13 Now, are we talking about building a  
14 studio for making videos and content, or are we  
15 talking about something else? It's a rather large  
16 room to sit there with a microphone and make a  
17 podcast.

18 But, you know, these are the kind of  
19 things I'm picking up on and, quite frankly, I have  
20 concerns about.

21 CHAIRMAN LEVITON: Before he answers,  
22 Adam, I just want to indicate that there's nothing  
23 in our ordinance -- well, actually, let me backtrack  
24 and start by telling you that we established -- and  
25 I know you listened to the transcript or you read it

1 -- we established that it is content creation, not  
2 just a podcast. That is on the record. He is a  
3 content creator, Mr. Buckley. Very successful  
4 following of over 3 million people. And our  
5 ordinance doesn't prohibit the creation content.

6 PLANNER BEAHM: It doesn't permit it  
7 either.

8 MEMBER WEISS: It doesn't permit it,  
9 but at the same time I think we as the board --

10 PLANNER BEAHM: It's not permitted.

11 CHAIRMAN LEVITON: No.

12 MEMBER WEISS: -- we need to get  
13 accurate information.

14 PLANNER BEAHM: Correct.

15 MEMBER WEISS: And I think if the  
16 information is being colored or tilted in a certain  
17 way to try and get a desired outcome, that is one  
18 thing. But I think that, you know, honesty with the  
19 board and transparency with the board is really  
20 important here.

21 And, Mr. Pape, this is nothing with  
22 you. I just think that the presentation needs to --  
23 needs to mirror or match reality.

24 CHAIRMAN LEVITON: So these are  
25 salient points everybody has been making.



1                   And, Mr. Pape, I'm going to -- before I  
2 allow you to answer this question -- I don't know if  
3 it is a question as much as a statement -- I would  
4 like you to continue with your affirmative case in  
5 the way you see fit. And then even though you have  
6 stipulated to the non-drug use and to the non-use of  
7 the gambling, I still want to wait to hear those  
8 guarantees from Mr. Buckley himself.

9                   So I'm going to ask you -- although you  
10 don't speak for Mr. Buckley, you speak for your  
11 client.

12                   ATTORNEY PAPE: For Mr. Sitar,  
13 correct.

14                   CHAIRMAN LEVITON: Yes. So these are  
15 valid concerns. We brought you back for  
16 transparency. We want specifically what it is that  
17 we're going to be granting relief for.

18                   We're not adverse to it, but we want it  
19 clear.

20                   PLANNER BEAHM: So, Mr. Chair, I don't  
21 mean to speak for Mr. Pape and I certainly don't  
22 need to speak for you, Gary, but my guess is that  
23 that information needs to be put on the record  
24 before you're able to give your use-variance  
25 testimony because the use-variance testimony is

1 based upon the use. And if we are not clear on the  
2 use, there is no sense in hearing from him.

3 CHAIRMAN LEVITON: Okay.

4 PLANNER BEAHM: So we should probably  
5 here from Mr. Buckley and get everything clarified  
6 before Mr. Dean actually testifies because, as a  
7 planner myself, you're always bad at cleanup, right,  
8 so you have to make sure you have everything on the  
9 record before you can justify it.

10 CHAIRMAN LEVITON: That's a good  
11 suggestion.

12 ATTORNEY PAPE: First, to Mr. Weiss, I  
13 take every statement that you make as a statement  
14 that is being made on behalf of the Township of  
15 Manalapan and the citizens of the Township of  
16 Manalapan. Your goal happens to be the same goal  
17 that I have, and that is to make certain that what  
18 we're presenting to you is something that should be  
19 a part of Manalapan.

20 No offense taken at all.

21 MEMBER WEISS: Neither was I offended.  
22 I appreciated his insight, always do, always do.  
23 He's our most valued board member, among the other  
24 eight people.

25 MEMBER WEISS: He meant to say, "in

1 this chair."

2 CHAIRMAN LEVITON: Of course.

3 ATTORNEY PAPE: Before we go to  
4 Mr. Buckley, there are a number of points that we  
5 have an obligation to make on the record. I would  
6 like to get those points on.

7 I can proffer them with your permission  
8 or I can have Gary Dean help me, but I would like to  
9 go through what they are.

10 CHAIRMAN LEVITON: You do your thing,  
11 Mr. Pape.

12 ATTORNEY PAPE: Okay. And then we'll  
13 certainly bring Mr. -- there was a question about  
14 hours of operation. And during the week, Jordan  
15 reached out to me and he wanted me to make a  
16 representation on the record about hours of  
17 operation.

18 Hours of operation will conclude no  
19 later than 10 o'clock, each and every activity, each  
20 and every activity that this board approves -- I'm  
21 hoping that there are activities that are  
22 approved -- will conclude at 10 o'clock, all of  
23 them.

24 And the building will be emptied of all  
25 tenants between 10 and 10:30 at the latest.

1                   We asked Mr. Rizzo as to the lighting  
2 to that. Lighting will be turned off 30 minutes  
3 after the last person leaves the building.

4                   PLANNER BEAHM: So no later than 11?

5                   ATTORNEY PAPE: No later than 10:30.

6                   PLANNER BEAHM: You said emptied by  
7 10:30.

8                   ATTORNEY PAPE: Right. And that's  
9 when the lights would go off.

10                  PLANNER BEAHM: At 10:30?

11                  ATTORNEY PAPE: Yes. 30 minutes after.

12                  PLANNER BEAHM: Okay.

13                  ATTORNEY PAPE: So 10 o'clock business  
14 ends, 10:30 business is out and lights go off.

15                  The lighting system that is there was  
16 the lighting system that was approved previously for  
17 a bank that had 24/7 operation. We ask that we be  
18 permitted to continue to be able to use the same  
19 lighting system.

20                  There was a request made by Mr. Rizzo  
21 that we provide a description of the security  
22 system. I provided a written description of the  
23 security system to him, and he asked that I place it  
24 on the record.

25                  And Mr. Buckley was -- actually

1 provided me with a copy of his contract for the  
2 security system, so I can tell you that in addition  
3 to the representations that were made that  
4 include -- there's the vault that is there, there  
5 are safes that are there, there's a 24-hour camera  
6 system. There's 24 separate cameras that are on  
7 that are live all of the time.

8           There is also an Electronic Security  
9 Corporation of American contract for a burglary  
10 system. And Mr. Buckley has given me authority to  
11 confirm that it's not proprietary, I can share it  
12 with you, so I will submit it and it becomes a part  
13 of the record. The security system that's outlined  
14 in this, which is a jeweler industry standard is the  
15 one that he intends to have at the property.

16           May I submit this to be marked?

17           CHAIRMAN LEVITON: You absolutely may.  
18 We won't need to enter it as an exhibit but it will  
19 be filed as part of the record.

20           BOARD SECRETARY: So I'm going to mark  
21 this as A-2.

22           ATTORNEY PAPE: Thank you.

23

24           (Exhibit A-2, Security Contract, was  
25           marked for identification.)

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ATTORNEY PAPE: We had early on gone to visit with the health department, the police department, and the fire department. And as you, I think you'll see in the record, there is evidence that we met with the fire officials and they gave us approval.

8

9

We met with the police officials and they indicated that they had no issues.

10

11

And the health department similarly gave us a clean bill of health.

12

13

14

15

16

So I wanted all those to be made part of the record so before Gary Dean, who is the professional engineer presenting the plan, as well as the professional planner. Perhaps we could keep his testimony concise and do it after Mr. Buckley.

17

18

And I would ask that maybe now is the time we bring Mr. Buckley.

19

Mr. Buckley, if you would rejoin?

20

21

CHAIRMAN LEVITON: Welcome back, Mr. Buckley. Mr. Marmero will swear you in again.

22

23

24

25

ATTORNEY MARMERO: If you raise your right hand we'll get you sworn in. Do you swear that the testimony you will provide tonight will be the truth, the whole truth, and nothing but the

1 truth?

2 JOHN BUCKLEY: I do.

3 ATTORNEY MARMERO: Can you remind us of  
4 your name again, sir?

5 JOHN BUCKLEY: John J. Buckley.

6 - - -

7 E X A M I N A T I O N

8 - - -

9 ATTORNEY PAPE: Mr. Buckley, I will  
10 remind you that you are under oath and were sworn in  
11 and placed under oath when you were last here.

12 Before the board provides you with  
13 examination, I would like to just go through the  
14 list and one by one ask if these accurately describe  
15 your uses and at the conclusion I will ask, are  
16 these the only uses that you're asking this board to  
17 permit you to do on the property.

18 The first one is on-site and online,  
19 all sales and retail sales of jewelry, watches and  
20 parts, together with administrative and support  
21 offices relating to same. Is that a use that you're  
22 asking this board to permit?

23 THE WITNESS: Yes, that is.

24 ATTORNEY PAPE: The second is  
25 photography, including the video and paid

1 authentication and appraisal services for watches  
2 and jewelry, is that a use that you're asking this  
3 board to permit?

4 THE WITNESS: Yes, it is.

5 ATTORNEY PAPE: And the third is  
6 participation and monitoring of chat groups and  
7 social media platforms that exist for sales,  
8 promotion and marketing of watches and jewelry. Is  
9 that a use that you're asking this board to permit?

10 THE WITNESS: Yes.

11 ATTORNEY PAPE: Fourth one is creation  
12 and broadcasting podcasts which may include  
13 interviews of representatives of companies and other  
14 persons in the watch and jewelry industry, which  
15 broadcasts may be for informational and/or  
16 promotional purposes for your business. Is that a  
17 use that you are requesting?

18 THE WITNESS: Yes, it is.

19 ATTORNEY PAPE: And are these all of  
20 the uses that you're asking this board to permit you  
21 to operate from the property?

22 THE WITNESS: Yes, it is -- yes, they  
23 are. Excuse me.

24 ATTORNEY PAPE: Thank you. Mr. Chair,  
25 and board members, if you have examination --



1 questions or concerns that you would like  
2 Mr. Buckley to address, I have nothing further on  
3 direct but he is available to you.

4 CHAIRMAN LEVITON: Mr. Buckley, you  
5 have heard the testimony this evening. You have  
6 been here for the entire proceedings. Can you  
7 affirm that there will be no gambling and/or drug  
8 usage at your establishment?

9 THE WITNESS: I absolutely guarantee  
10 there will be no drug usage and no gambling in the  
11 facility or anywhere that we have jurisdiction over.

12 CHAIRMAN LEVITON: Mr. Buckley, I have  
13 seen letters of complaint that were filed with our  
14 office and they -- one of them indicated that your  
15 business will attract an under-element of society,  
16 for lack of a better way of saying it. Can you  
17 address that?

18 THE WITNESS: I think it's just  
19 written by somebody who doesn't really understand  
20 the business. We're talking about five-, six- and  
21 seven-figure timepieces that we deal in regularly  
22 and I can't understand who would write something  
23 like that.

24 PLANNER BEAHM: Respectfully, he  
25 referred to videos that your son broadcasts on

1 YouTube, which I watched personally.

2 THE WITNESS: Tyler is my son's best  
3 friend.

4 PLANNER BEAHM: It wasn't Tyler, it  
5 was your son who was purchasing watches from an  
6 individual in a pickup truck who wouldn't say where  
7 the watches came from, in a parking lot. And there  
8 was also a video of the gambling. So I get what  
9 you're saying, but your son's YouTube activity is  
10 inconsistent with the testimony.

11 CHAIRMAN LEVITON: So let me see if I  
12 can get something else. So Mr. Tyler, what she is  
13 referring to, I don't know firsthand. I have not  
14 seen any of these videos. However, I have seen a  
15 letter of complaint that does reference some of the  
16 same things that Ms. Beahm just talked about.

17 THE WITNESS: Yes.

18 CHAIRMAN LEVITON: One of them and you  
19 testified to five-figure pieces of jewelry. So one  
20 of the complaints indicated, and Ms. Beahm  
21 referenced it, a watch that was more than \$100,000,  
22 where cash was part of the remittance in exchange  
23 for the jewelry and the letter of complaint against  
24 you indicated that you could not establish its  
25 authenticity or where you got it from. So I see

1 your consternation on your face as you're confused  
2 by what I'm talking about. I want to ask you about  
3 the legitimacy of the pieces that you're selling.  
4 Is there a way to ensure that we're not going to be  
5 supporting something that is not aboveboard, which  
6 I'm sure you can understand is a legitimate concern.

7 THE WITNESS: Absolutely.

8 CHAIRMAN LEVITON: Okay.

9 THE WITNESS: Absolutely. I say the  
10 same thing to the board, do a Google search of me.  
11 I am one of the top experts in the world and I --  
12 you know, I am the guy that jewelry stores in the  
13 area, and all over the country and the world, go to  
14 for authenticity and to buy and sell authentic parts  
15 for their collector-grade watches, auctions, auction  
16 houses, collectors all over the world.

17 CHAIRMAN LEVITON: I appreciate your  
18 expertise, sir. I'm not questioning it. What I'm  
19 trying to -- has it ever been your experience that a  
20 customer has asked you to ensure that the piece of  
21 jewelry that they're buying hasn't falling off a  
22 truck or hasn't been fenced?

23 THE WITNESS: Absolutely. We give  
24 invoices for everything and everything that we buy,  
25 we have a record of, whether it's shown sometimes on

1 a YouTube video or not, there's always a paper trail  
2 for everything that we do. That's just an industry  
3 standard.

4 MEMBER WEISS: How long do you hold  
5 the watches that are sold to you before you resell  
6 them?

7 THE WITNESS: Depends on the township  
8 or depends on the city. Usually in New Jersey, it's  
9 two weeks.

10 MEMBER WEISS: Two, not three?

11 THE WITNESS: I believe it's two, I'm  
12 not sure because once we open up --

13 ATTORNEY MARMERO: You guys might have  
14 a local ordinance. Some towns do have a local  
15 ordinance as to how long you need to keep them. It  
16 usually applies to pawn shops but it probably --  
17 well, that's what I'm hearing.

18 CHAIRMAN LEVITON: Albert is  
19 researching it right now, so --

20 MEMBER WEISS: Thank you, Albert, for  
21 bringing that up because my other concern is that  
22 this turns into a pawn shop.

23 THE WITNESS: No. Definitely.

24 MEMBER WEISS: I know you say no, but  
25 I have concerns about it. Do you photograph the

1 people to whom you -- from whom you purchase watches  
2 and maintain that on file?

3 THE WITNESS: From the public?

4 MEMBER WEISS: Yes.

5 THE WITNESS: We don't do a lot of  
6 buying from the public in New Jersey, in New York we  
7 do. And we just take their passport, driver's  
8 license. That is what is required.

9 MEMBER WEISS: You do the same thing  
10 or similar here?

11 THE WITNESS: Absolutely. You have  
12 to.

13 MEMBER WEISS: What is Vookum?

14 THE WITNESS: Vookum is a company that,  
15 Tyler, who is my son's best friend, myself and my  
16 son started four years ago. Well, Tyler started it  
17 five years ago.

18 MEMBER WEISS: Tyler is also known as  
19 Vookum, correct? So it's more than just a company.  
20 It's actually a personality, if you will?

21 THE WITNESS: Yeah, you can say that,  
22 but it is a company. And when we started it, he  
23 left college, I will be very honest, because the  
24 story's all over the internet.

25 MEMBER WEISS: Well, you're under oath

1 so I hope you're honest.

2 THE WITNESS: Of course. And he left  
3 college and came to me and said, "I want to do what  
4 you do." I said, "Okay. If you want to do what I  
5 do, then you have to do it the way I do it." And he  
6 spent time with me and he started a business. And  
7 he wanted me to help him with it, which I did. And  
8 my son, who was in a photography field for the most  
9 part, who has grown up in the business, joined in  
10 during COVID because nobody was really hiring and we  
11 started this little business and it has turned into  
12 a, you know -- I had a very -- I still have a very  
13 successful business, but this business is like my  
14 pet project right now. And we've turned it into  
15 something, you know, we're not going to talk money  
16 but it's a great business.

17 MEMBER WEISS: And so let me ask you  
18 this, you have a website for Vookum?

19 THE WITNESS: Yeah, there's a  
20 rudimentary website.

21 MEMBER WEISS: What is the address of  
22 the property on the website? What do you put listed  
23 as your business address?

24 THE WITNESS: One of the addresses we  
25 had was Hazlet, an office that we used to have and I

1 looked online and somebody put the address on there.

2 MEMBER WEISS: As you if you were  
3 already doing business there.

4 THE WITNESS: I didn't want to change  
5 it because I didn't want to seem we're, you know --

6 MEMBER WEISS: Not there. Right.

7 THE WITNESS: No. I didn't want to  
8 seem like I was trying to cover up anything. I saw  
9 that in the last couple of days. I was like oh, my  
10 God.

11 MEMBER WEISS: You didn't take it  
12 down.

13 THE WITNESS: I didn't want to take it  
14 down without, you know, being able to, you know,  
15 just sit here and not know if there's anyway to  
16 clean it up, but we have people that handled the  
17 page and they just put it up there --

18 MEMBER WEISS: Okay.

19 THE WITNESS -- in anticipation --

20 MEMBER WEISS: What is this podcast  
21 thing that you do? Describe it for me.

22 THE WITNESS: Podcasting, just not to  
23 challenge your definition of it, but I have been on  
24 numerous podcasts and they're always videotaped.

25 MEMBER WEISS: So the Tik-Tok videos,

1 do you consider those podcasts?

2 THE WITNESS: No, not at all.

3 MEMBER WEISS: So you won't be making  
4 them?

5 THE WITNESS: We're going to be making  
6 them, definitely.

7 MEMBER WEISS: Okay. So it's more  
8 than a podcast/social media production facility?

9 THE WITNESS: I can clarify for you.

10 MEMBER WEISS: What is Vookum  
11 Membership or Vookum Prime or Vookum Plus.

12 THE WITNESS: Vookum Verified?

13 MEMBER WEISS: Vookum Verified. What  
14 is that?

15 THE WITNESS: Vookum Verified is the  
16 chat group that is mentioned in the application,  
17 which we provide services to the public and we  
18 charge them a fee monthly to be in our chat group  
19 and we monitor it. We have moderators and I'm  
20 usually the last voice and people buy and sell and  
21 trade online all over the world.

22 MEMBER WEISS: So as far as monitoring  
23 social media, doesn't Vookum Verify go beyond  
24 monitoring the social media?

25 THE WITNESS: In what way?



1                   MEMBER WEISS: In what way? Well, I  
2 mean, you're charging people a monthly fee to be a  
3 member of your --

4                   THE WITNESS: Chat group.

5                   MEMBER WEISS: -- web group, correct?

6                   THE WITNESS: Correct.

7                   MEMBER WEISS: So that's more than,  
8 you know, the type of business operation that you  
9 have, it's rather multi-faceted; wouldn't you agree?

10                  THE WITNESS: Yes, it is.

11                  MEMBER WEISS: You have the watch  
12 sales, you have the potential jewelry sales, you  
13 have the Tik-Tok accounts that are monetized, I'm  
14 sure.

15                  THE WITNESS: Yes.

16                  MEMBER WEISS: You also have this  
17 Vookum Verified, which I don't know if that was  
18 listed in one of the --

19                  THE WITNESS: It is.

20                  MEMBER WEISS: Okay. So there's a lot  
21 of different activities that are going on there.

22                                 In terms of bringing people in,  
23 personalities, if you will, do you plan on doing  
24 that, promotions where you will have like, you know,  
25 the Mazal guy come in who, you know, he's here for

1 the day, come in and see and get some signings and  
2 have your watches evaluated? Are you going to do  
3 stuff like that.

4 THE WITNESS: It was not in our plan  
5 but if people that we know show up, they're going to  
6 be promoting it on social media, I'm sure.

7 CHAIRMAN LEVITON: I am going to need  
8 to interject at this time because that sounds like  
9 part of a conversation we had at the last meeting  
10 where I asked you about collaborators --

11 PLANNER BEAHM: Yep.

12 CHAIRMAN LEVITON: -- and Ms. Beahm  
13 said there would be none. And that's what we  
14 discussed before so, Ms. Beahm, I'm going to defer  
15 to you on this matter.

16 PLANNER BEAHM: I just feel like every  
17 time we have a conversation and every time a  
18 question is asked, what you're asking us for  
19 changes.

20 So you're here for a use variance.  
21 You're not here as an as-of-right application. So  
22 you're here as something that's not permitted at all  
23 and you're asking this board to give you permission  
24 to occupy a building, which regardless of what you  
25 say or not, the YouTube videos show me that you're

1 already in it.

2 So I feel like every single time a  
3 question is put to you and you have to answer it,  
4 the answer changes, so --

5 CHAIRMAN LEVITON: Well, it doesn't  
6 change. He's truthful every time but he reveals  
7 something new.

8 PLANNER BEAHM: I'm going to  
9 respectfully not opine on whether he's truthful  
10 because I feel like he said no to the jewelry  
11 exchange but there's a YouTube video that says  
12 jewelry exchange. He said no to --

13 ATTORNEY PAPE: That was in October.  
14 He retracted it.

15 PLANNER BEAHM: -- anything outside  
16 the building being done for jewelry purchase but  
17 there's webcam -- there's a YouTube video that says  
18 his son is physically there buying watches from  
19 someone out of a pickup truck that says, "don't  
20 worry about where it came from," quote/unquote.  
21 It's on the internet. So there is an issue when you  
22 want to live your life on the internet, that's  
23 great, but you're going to live and die by what's on  
24 the internet.

25 ATTORNEY PAPE: It's the record that

1 we make here that is the one that is binding on us  
2 as we go forward.

3 CHAIRMAN LEVITON: I am going to agree  
4 with that.

5 PLANNER BEAHM: I understand.  
6 However, you're also asking this board to opine on  
7 the positive and negative criteria associated with a  
8 d(1) Variance. And the negative criteria,  
9 respectfully, Ken, is the negative impact and it's  
10 impossible to quantify the negative impact when we  
11 don't know what the use is.

12 CHAIRMAN LEVITON: So we're going to  
13 have to take that into account. We get that. But I  
14 will say that when Mr. Weiss questioned you about  
15 Vookum, you did introduce something new to this  
16 board that we had not heard.

17 THE WITNESS: What was that?

18 CHAIRMAN LEVITON: That Mr. Vookum is  
19 both a personality and a business.

20 THE WITNESS: It's just a name that we  
21 made up for a company and people call --

22 MEMBER WEISS: No, no, no.

23 CHAIRMAN LEVITON: That's different  
24 than what I understood.

25 MEMBER WEISS: So there's actually a

1 podcast, which is a legit podcast, where people  
2 actually sitting around microphones, they have to  
3 video it, where Tyler is on there.

4 THE WITNESS: Yes.

5 MEMBER WEISS: And they actually make  
6 a comment that they didn't even know his name was  
7 Tyler, because he's always known as Vookum, a  
8 personality. So again, you know, I guess I keep  
9 asking more questions, I will actually get a more  
10 transparent picture.

11 THE WITNESS: I can't confirm or, you  
12 know, answer for people, how they perceive Tyler or  
13 Vookum, but he is known as --

14 MEMBER WEISS: Sir, would you agree  
15 with me that Tyler is known as Vookum?

16 THE WITNESS: Yes.

17 MEMBER WEISS: Thank you.

18 THE WITNESS: Absolutely.

19 CHAIRMAN LEVITON: So I said what I  
20 thought and it just doesn't look good that this  
21 information gets released in dribs and drabs. I do  
22 take you at your word, though, and I do recognize  
23 that what you enter in the way of testimony and in  
24 this proceeding is what counts and what I will  
25 consider.

1                   MEMBER WEISS: I will say, to be very  
2 blunt, I found stellar information about you and  
3 your skills -- you and your skills. And if that was  
4 the only thing in front of us, we would be having a  
5 different conversation, at least I would be.

6                   Your skills are, from what I can tell,  
7 unmatched and all of that. And I don't want to take  
8 that away from you at all. You know, you're to be  
9 complimented for that, but there's this other side  
10 of what you're doing and who you are associated with  
11 that are causing me -- causes me a lot of concern,  
12 especially given the fact that we're talking about a  
13 property that abuts a residential neighborhood.

14                   THE WITNESS: Understood.

15                   MEMBER WEISS: That's my concern.

16                   THE WITNESS: If I can just try to  
17 explain. I had to sign a personal guarantee with  
18 the owners and I give you, the board, a personal  
19 guarantee that everything that we address in the  
20 application will be adhered to and I will enforce  
21 it. And if there -- I guarantee there will be no  
22 shenanigans, no drug use -- I don't know where that  
23 came from but -- no gambling, none of that stuff  
24 will go on here. What we do on social media is  
25 shameless self-promotion, like most influencers do.

1 I have been on social media for many, many years.  
2 That's where I got my reputation. Tyler and myself,  
3 we went viral just as pure luck or happenstance and  
4 here we are. But what we do, our business -- and I  
5 say this to everybody on the board -- if you ask  
6 anyone online, anybody in the industry about our  
7 reputation in the business insofar as selling, you  
8 know, counterfeit goods or subpar merchandise, I you  
9 will not find anything on the internet. And I  
10 absolutely -- I don't want to challenge but anybody  
11 can check on the internet. There is a lot of  
12 information out there. There is a lot of good  
13 information about us, too. And I think we will be a  
14 credit and a great business in Manalapan. The boys  
15 grew up in Manalapan. I mean, you know, that's all  
16 I can really say. I can't say anything else.

17 CHAIRMAN LEVITON: I want to state for  
18 the record that, although I have been privy to  
19 letters of complaint that I've addressed the  
20 contents within, I quote that their value was more  
21 probative than it was --

22 ATTORNEY PAPE: Dispositive.

23 CHAIRMAN LEVITON: -- dispositive.

24 Yeah, I don't want to contacts dispersions either.  
25 I just want to bring everything out into the light.

1 Since Mr. Pape does have Mr. Dean to present and he  
2 has given us Mr. Buckley for questions, let's go to  
3 the rest of the board and see what they want to ask,  
4 if they're not already there.

5 MEMBER WEISS: I'm good.

6 CHAIRMAN LEVITON: The board wants to  
7 recognize Mr. Weiss's contribution in -- especially  
8 due to the fact that he missed the last meeting and  
9 we compliment him on his homework and his diligence.  
10 Bob, how about you, sir?

11 VICE-CHAIRMAN GREGOWICZ: I'm  
12 concerned with the hours of operation. They're from  
13 10:00 a.m. to 10:00 p.m., seven days a week.

14 THE WITNESS: It's just in the event  
15 that we need extra time because we do business  
16 overseas online. I mean, if I -- sometimes, you  
17 know, if we're going to be working, there are times  
18 when we are working remotely, we won't even be  
19 there. But in the event that we're there and we  
20 have to take pictures or we have to use some of the  
21 stuff that we are going to have there --

22 VICE-CHAIRMAN GREGOWICZ: What happens  
23 if you're working with a client overseas and working  
24 on a deal and it goes past 10 o'clock at night?

25 THE WITNESS: I tell them call me in



1 the morning or call me later.

2 VICE-CHAIRMAN GREGOWICZ: What happens  
3 between the hours of 10:00 a.m. and 6:00 p.m.?

4 THE WITNESS: It's business as usual.  
5 Buying and selling watches.

6 VICE-CHAIRMAN GREGOWICZ: After  
7 6:00 p.m., the doors are locked?

8 THE WITNESS: The doors are -- the  
9 doors are going to be locked all the time.

10 VICE-CHAIRMAN GREGOWICZ: Can't you do  
11 that marking business online at your own residence  
12 that you have to be there at the place seven days a  
13 week until 10 o'clock at night, Friday nights,  
14 Saturday nights, Sunday nights?

15 THE WITNESS: Again, in the event that  
16 we need it, we felt that we had to be open and  
17 honest about whether or not we don't want to be  
18 there and not be allowed to.

19 VICE-CHAIRMAN GREGOWICZ: I mean, it's  
20 one thing if the business can close at 6 at night  
21 but I have concerns that that business is going to  
22 be open at 10 o'clock at night, especially Friday  
23 nights.

24 THE WITNESS: It won't be every night.

25 VICE-CHAIRMAN GREGOWICZ: You list it

1 here, it's going to be open seven days a week until  
2 10 o'clock at night.

3 ATTORNEY PAPE: Right. And the  
4 retail, the operation where customers are permitted  
5 concludes at 6:00 p.m., that was the testimony and  
6 from 6 to 10 that they would be -- the principals  
7 would be present and they could be videoing as late  
8 as 10:00 o'clock.

9 CHAIRMAN LEVITON: So that concerns  
10 me. A short follow-up to your question line is all  
11 about. Mr. Buckley?

12 THE WITNESS: Yes.

13 CHAIRMAN LEVITON: You indicate that  
14 the reason that you will be maintaining a presence  
15 at the business is because you're doing overseas  
16 business but you don't say whether you are going to  
17 be creating content. That's problematic to me. Why  
18 not say, "we're going to create content"? Am I  
19 wrong?

20 THE WITNESS: We create content all  
21 the time.

22 CHAIRMAN LEVITON: Otherwise I ask you  
23 to not have -- you requested two technicians as  
24 staff.

25 THE WITNESS: Yes.

1                   CHAIRMAN LEVITON: Do you need them  
2 between 6 and 10?

3                   THE WITNESS: We may or we may not.

4                   CHAIRMAN LEVITON: So then that's  
5 content creation and you should say so and not  
6 otherwise --

7                   THE WITNESS: I thought we did.

8                   CHAIRMAN LEVITON: -- it doesn't come  
9 across as credulous. But right now he's testified  
10 to the fact that the business is going to be  
11 conducting overseas transactions between 6 and 10.  
12 That's why he wants it -- he wants the leeway to  
13 have the business open that late seven days a week.  
14 And if we grant it, we want to know what it is that  
15 we're granting relief for. This is a Use Variance.  
16 It's a heavy lift. And if he's going to be keeping  
17 his technicians on at that time, then it's really  
18 about content creation and he should say so.

19                  ATTORNEY PAPE: We do use -- one of  
20 the uses we state is creation.

21                  CHAIRMAN LEVITON: He needs to affirm  
22 it here -- when Mr. Gregowicz questions him about  
23 it, he needs to be transparent. That was the point  
24 of bringing you back, transparency. I'm going to  
25 let him resume his line of questions again.

1                   ATTORNEY PAPE: Understood. I thought  
2 we established it when I went through each of the  
3 uses and one of them is creation.

4                   CHAIRMAN LEVITON: But he didn't say  
5 it, which is troubling to me, and it's why I -- you  
6 know, I'm not going to go around and around with it.

7                   VICE-CHAIRMAN GREGOWICZ: At this time  
8 I'm finished.

9                   ATTORNEY PAPE: Understood.

10                  PLANNER BEAHM: Ken, I think the  
11 concern is when he asked about the hours of  
12 operation, the rationale that was presented to him  
13 was because he was doing business overseas. It  
14 wasn't content creation. So I think that that's  
15 what the chairman is struggling with is --

16                  CHAIRMAN LEVITON: He understands.  
17 I'm not averse to content creation.

18                  PLANNER BEAHM: I'm not saying you  
19 are.

20                  CHAIRMAN LEVITON: I know. I'm just  
21 stating it for the record.

22                  PLANNER BEAHM: You just want the  
23 information so you know what you're asked to  
24 approve.

25                  CHAIRMAN LEVITON: I dislike that it's

1 not forthcoming.

2 PLANNER BEAHM: Correct.

3 CHAIRMAN LEVITON: That is what is  
4 troubling.

5 BOARD PLANNER: That's what I'm  
6 saying. It's like pulling teeth to get the actual  
7 information.

8 ATTORNEY PAPE: I prefer not to call  
9 it pulling teeth. Between 6 and 10 at night, are  
10 you asking for permission to do videoing in between  
11 6 and 10:00 at night?

12 THE WITNESS: Yes.

13 ATTORNEY PAPE: Are you asking for  
14 permission to be in the building and conducting  
15 international sales with your doors locked and no  
16 customers?

17 THE WITNESS: Yes.

18 CHAIRMAN LEVITON: Thanks,  
19 Mr. Buckley.

20 Mr. Mantagas.

21 MEMBER MANTAGAS: My question is for  
22 Mr. Buckley. The podcast creation of content is  
23 strictly watches. It's not going to be any other --

24 THE WITNESS: We talk to people in the  
25 watch industry.

1                   MEMBER MANTAGAS:  It's all about  
2 watches.  No other content will be --

3                   THE WITNESS:  Jewelry, watches.

4                   MEMBER MANTAGAS:  Strictly?

5                   THE WITNESS:  Correct.  Everything  
6 revolves around that.

7                   MEMBER MANTAGAS:  Thank you.  No more  
8 questions, Mr. Chairman.

9                   CHAIRMAN LEVITON:  Mr. Wechsler?

10                  MEMBER WECHSLER:  Thank you,  
11 Mr. Chairman.  Mr. Buckley, sticking with D on the  
12 social media or podcast, will you be the only  
13 content creators there or will you be inviting other  
14 content creators in with you?

15                  THE WITNESS:  If they're in the  
16 jewelry business or in the watch space, we will have  
17 other people coming in to do podcasts or a  
18 discussion or any kind of --

19                  MEMBER WECHSLER:  So is it strictly  
20 jewelry and watches or will it be in custom cars or  
21 anything else like that?

22                  THE WITNESS:  I mean, we specialize in  
23 investment-grade watches, that's what we do.  
24 Jewelry is an extra, as far as I'm concerned.  I  
25 don't deal in cars.

1                   MEMBER WECHSLER: Okay. And then my  
2 follow-up to that is, is it limited to interior use  
3 only --

4                   THE WITNESS: Yes.

5                   MEMBER WECHSLER: Or will it be  
6 outside in the parking lot or any part of the  
7 grounds?

8                   THE WITNESS: Interior only in the  
9 space that we identified.

10                  MEMBER WECHSLER: Thank you. That's  
11 all I have.

12                  CHAIRMAN LEVITON: Thank you, Michael.  
13 Jennifer, let's go to you and get a ruling on this  
14 collaboration because it keeps come up and I don't  
15 -- I don't -- you know, I'm don't personally see why  
16 he needs to be restricted from collaborating as it  
17 leads to jewelry where he creates his content but I  
18 know it's important to you and if you could expand  
19 on it and elaborate a little bit?

20                  BOARD PLANNER: No, I think the  
21 question was excellent because if it's interior to  
22 the building and it's jewelry, watches, based upon  
23 the use that they're asking for here, that is fine.

24                  But there has been some speculation  
25 that it's car dealerships, outside activities,

1 things happening in the parking lot. So the  
2 testimony is there will be nothing happening in the  
3 parking lot and I think that's an important piece of  
4 information to get on the record because I think up  
5 until now it's been very vague as to -- when we were  
6 here last time and it was, it could be other people.  
7 There wasn't any clear answer as to, to do what?  
8 And if it stays in that area, which is identified as  
9 area Number 6 on the building -- in this building in  
10 the floor plan and it's not exterior stuff, car  
11 stuff, et cetera, I think that's a different use.  
12 Once you start going in the parking lot and you have  
13 things happening outside the building. So I think  
14 that that answer was critically important.

15                   ATTORNEY MARMERO: If I could,  
16 Mr. Chairman, I think the issue last time with the  
17 other people was part of the public good issue.  
18 That wasn't part of the public notice. The public  
19 notice now does indicate creation and broadcasting  
20 podcasts which may include interviews of  
21 representatives of companies and other persons in  
22 the watch and jewelry industry. So I think the  
23 issue before was you saw it as an additional use.  
24 You guys have now included that within your use  
25 and --



1 PLANNER BEAHM: Right.

2 ATTORNEY MARMERO: -- what it's  
3 limited to.

4 PLANNER BEAHM: Right, so the notice  
5 basically says, "other people, as long as it's in  
6 the watch and jewelry business."

7 That's what they noticed for, right,  
8 Al?

9 ATTORNEY MARMERO: Yes.

10 PLANNER BEAHM: Once it gets beyond  
11 that, that's a different situation.

12 CHAIRMAN LEVITON: Mr. Buckley?

13 THE WITNESS: Yes.

14 CHAIRMAN LEVITON: You understand it?

15 THE WITNESS: Absolutely.

16 CHAIRMAN LEVITON: You're good with  
17 all that?

18 THE WITNESS: 100 percent. As it's  
19 written, absolutely and I agree.

20 CHAIRMAN LEVITON: That pleases me  
21 greatly.

22 Mr. Pochopin?

23 MEMBER POCHOPIN: Thank you,  
24 Mr. Chair. I have no questions. All my colleagues  
25 have requested all the information I was seeking,

1 also. So thank you.

2 CHAIRMAN LEVITON: Thanks, Danny.  
3 John?

4 MEMBER HARRINGTON: Just quick  
5 question. You mentioned that your in your own  
6 location, your doors are locked all the time,  
7 correct?

8 THE WITNESS: Yes.

9 MEMBER HARRINGTON: Where is your  
10 other location and when do you --

11 THE WITNESS: We have a location in  
12 New York that we -- we had a location for many, many  
13 years in New York and then when COVID hit, our lease  
14 ended, fortunately, just before it hit. And we go  
15 back and forth couple of times a week doing our  
16 business in New York and we still will be doing  
17 that.

18 MEMBER HARRINGTON: I mean, are you  
19 conducting business anywhere else?

20 THE WITNESS: No.

21 MEMBER HARRINGTON: Just New York a  
22 couple of days a week?

23 THE WITNESS: Yes.

24 MEMBER HARRINGTON: And you're seeing,  
25 I guess, business which is good, picking up.

1 THE WITNESS: It goes up and down but  
2 we're very -- very fortunate.

3 MEMBER HARRINGTON: Okay. That's  
4 awesome to hear.

5 CHAIRMAN LEVITON: John, I'm going to  
6 interrupt you because I want to pick up on that  
7 vein. Mr. Buckley, once again, your testimony  
8 leaves me with more questions than answers. You  
9 testified that you're going to go back and forth a  
10 couple of times a week to Manhattan to do business  
11 but I'm not clear on what that is going to entail.  
12 Are you maintaining an office in Manhattan?

13 THE WITNESS: We have a satellite  
14 office that we have had for years that we get things  
15 shipped in or dropped off there. And sometimes we  
16 have to go and prepare shipping to ship back to  
17 New Jersey.

18 CHAIRMAN LEVITON: You have office  
19 space in Manhattan?

20 THE WITNESS: Yes, that we share with  
21 another company, that we have shared for a long  
22 time.

23 CHAIRMAN LEVITON: And you have office  
24 space in Hazlet?

25 THE WITNESS: No, that's been --

1 CHAIRMAN LEVITON: That's defunct.

2 There's nothing there.

3 THE WITNESS: Correct.

4 CHAIRMAN LEVITON: And your primary  
5 place of business is going to be here in Manalapan?

6 THE WITNESS: That is correct.

7 CHAIRMAN LEVITON: And your business  
8 in Manhattan is related to shipping and receiving  
9 and/or trading?

10 THE WITNESS: Correct. And doing  
11 business. If we have to meet someone in Manhattan  
12 and they don't -- we haven't been doing business in  
13 New Jersey. We don't have a place. But in New York  
14 is where we have been doing business for many, many  
15 years so a lot of people know us there. We still  
16 have associations there.

17 CHAIRMAN LEVITON: I understand.

18 Adam, anything else?

19 MEMBER WEISS: I'm okay. Thank you.

20 ATTORNEY MARMERO: Can I ask a  
21 question, Mr. Chairman?

22 CHAIRMAN LEVITON: Yes.

23 ATTORNEY MARMERO: So you do have a  
24 precious gems and metals chapter in your ordinance,  
25 Chapter 173. What that section governs is -- well,

1 it indicates that no individual person, partnership  
2 or cooperation shall engage in the business of  
3 purchase of precious metals and gems and all forms  
4 of previously owned jewelry would first obtaining a  
5 license. It goes -- throughout the text it  
6 indicates how long items have to be kept. It talks  
7 about the records that have to be maintained. It  
8 doesn't reference watches but it would seem to apply  
9 to this business.

10 MEMBER WEISS: Does it define jewelry?

11 ATTORNEY MARMERO: It has no  
12 definition section.

13 CHAIRMAN LEVITON: It's broad enough  
14 to include --

15 PLANNER BEAHM: But if the watches  
16 have diamonds on them, wouldn't --

17 ATTORNEY MARMERO: The applicant is  
18 seeking the ability to sell jewelry, watches and  
19 parts. I think it would apply but you want to get  
20 the applicant on the record to agree to comply with  
21 your precious gems and metals ordinance.

22 CHAIRMAN LEVITON: Mr. Buckley?

23 THE WITNESS: I comply.

24 CHAIRMAN LEVITON: He is compliant?

25 THE WITNESS: Yes, I am.

1 CHAIRMAN LEVITON: Thank you, Albert.

2 ATTORNEY PAPE: Were you reading from  
3 the general ordinance of the town.

4 ATTORNEY MARMERO: Yes, Chapter 173 of  
5 the general ordinances and it's pretty similar to  
6 most of the pawn-shop-type ordinances that you will  
7 see in towns but it doesn't apply just to pawn  
8 shops. It's anyone doing any kind of purchase of  
9 previously owned. It does have exceptions if you're  
10 buying from -- if you're a company, someone who's in  
11 the business of selling, like if you're buying from  
12 an individual, it kicks in a bunch of different  
13 requirements. You have to keep the items for  
14 20 days before you dispose of them or melt them or  
15 do something like that. There's a license required  
16 for some interface with the police required,  
17 identifications of sellers and receipt books. So  
18 it's got record-keeping requirements, too --

19 THE WITNESS: Absolutely.

20 ATTORNEY MARMERO: -- which you will  
21 see in most towns.

22 THE WITNESS: Yes.

23 ATTORNEY PAPE: Your statements are,  
24 you will comply with that ordinance and you'll  
25 secure the required license?

1 THE WITNESS: I will.

2 MEMBER WEISS: Mr. Buckley, as a  
3 condition, would you agree that you will not operate  
4 any pawn business there and/or loans, if you will,  
5 in exchange for jewelry? Is that something that you  
6 would agree to as a condition to the extent the  
7 board looks favorably upon your application?

8 THE WITNESS: I agree to that.

9 MEMBER WEISS: Thank you.

10 ATTORNEY PAPE: No pawn, P-A-W-N.

11 MEMBER WEISS: Pawn.

12 ATTORNEY MARMERO: That was a jewelry  
13 setting.

14 MEMBER WEISS: For the record, I  
15 referenced Pawn Stars, P-A-W-N, Stars. It's a show.  
16 Thank you.

17 PLANNER BEAHM: Yes.

18 ATTORNEY MARMERO: It's real close to  
19 another word.

20 MEMBER WEISS: Yes, it is.

21 ATTORNEY MARMERO: It's a little stormy  
22 outside right now.

23 MEMBER WEISS: It's okay.

24 CHAIRMAN LEVITON: One of the things I  
25 enjoy most about serving the township in this

1 capacity is watching the legal eagles do their  
2 thing. They never cease to amaze me, whether  
3 they're hired professionals or volunteers who sit  
4 here on the days.

5 ATTORNEY PAPE: Our spouses are bored  
6 with it, though. Truly bored.

7 CHAIRMAN LEVITON: Ms. Klompus?

8 MEMBER KLOMPUS: How many people do  
9 you anticipate to be working in this building daily?

10 THE WITNESS: We have the three  
11 partners, which is myself, my son and Tyler. We  
12 have a cameraman. I think I have two camera people  
13 and maybe a receptionist and a part-time watchmaker,  
14 maybe one day a week.

15 MEMBER KLOMPUS: How often will the  
16 three of you there to -- the main people be in  
17 New York versus this building?

18 THE WITNESS: It depends on how we're  
19 going to be transitioning everything from New York  
20 into New Jersey. So we will be going back at least  
21 one a day. I mean, not all of us. Somebody will be  
22 in 191 and maybe the boys will go in or I will go in  
23 on my own and handle whatever it is to kind of clean  
24 up what we have over there. The objective is to  
25 move everything into New Jersey. That has been the



1 objective for the longest time for many different  
2 reasons aside from the obvious that it's crazy in  
3 New York.

4 MEMBER KLOMPUS: So will those other  
5 people mostly be working Monday through Friday and  
6 there shouldn't be much activity on Saturday and  
7 Sunday?

8 THE WITNESS: We will have camera  
9 people on Saturday and/or Sunday. I'm not sure what  
10 the actual schedule is going to be, but we will have  
11 camera people there I'd say 75 percent of the days  
12 that we're going to be there. 75 percent of the  
13 time that we're going to be there.

14 MEMBER KLOMPUS: Thank you.

15 THE WITNESS: You're welcome.

16 MEMBER WECHSLER: Mr. Chairman?

17 CHAIRMAN LEVITON: Yes?

18 MEMBER WECHSLER: I have a question. I  
19 don't even know if it actually goes through right  
20 now but we have a lot of conditions come up back and  
21 forth. How do we ensure compliance?

22 PLANNER BEAHM: That's the critical  
23 question.

24 CHAIRMAN LEVITON: Always tough.

25 PLANNER BEAHM: That's the critical

1 question, so it goes back on the township, whether  
2 it's police or code enforcement or what have you.

3 ATTORNEY MARMERO: So the precious  
4 gems and metals stuff is kind of a police thing and  
5 that one's kind of easy. And the social media  
6 stuff, I don't know. If it's involving cars instead  
7 of jewelry, I don't know.

8 PLANNER BEAHM: That would be code  
9 enforcement.

10 ATTORNEY MARMERO: Someone would have  
11 to see it online and --

12 PLANNER BEAHM: And report it to code  
13 enforcement, code enforcement would have to issue  
14 them a summons and then they would duke it out in  
15 municipal courts.

16 MEMBER WECHSLER: Would it be  
17 Mr. Buckley or the owner of the property?

18 PLANNER BEAHM: Quite honestly, the  
19 owner of the property would end up getting the  
20 summons.

21 ATTORNEY MARMERO: For us, yeah, for  
22 the township's purposes, it's the property owner.

23 CHAIRMAN LEVITON: Michael, you're  
24 going to have to weigh whether you think about the  
25 granting of the use variance would negatively impact

1 on the neighborhood.

2 You've got your concerns. It's a  
3 negative criteria.

4 Mr. Buckley, you are testifying this  
5 evening that you were going to be creating content?

6 THE WITNESS: Yes.

7 CHAIRMAN LEVITON: And that it was  
8 going to be all day long while the business is in  
9 operation and beyond 10 o'clock, and you specify in  
10 your Floor Plan Area 6 for that purpose.

11 And what hasn't been testified to is  
12 the percent of the business that is devoted to  
13 content creation. I would like to know about that.

14 Tonight you said that you had a very  
15 successful business as it related to content that  
16 you wouldn't quantify it financially but how you  
17 were very pleased with it. I threw that in. You  
18 didn't actually say that but I threw in; accurate?  
19 You implied it.

20 THE WITNESS: Yes.

21 CHAIRMAN LEVITON: So I'm not  
22 interested, I accept that for what it is but I would  
23 like you to say, as near as you can, how much of  
24 your business is jewelry appraisal, how much of it  
25 -- and/or anything watch-related and how much is

1 content creation?

2 THE WITNESS: In terms of finances?

3 CHAIRMAN LEVITON: No.

4 PLANNER BEAHM: Percentage.

5 CHAIRMAN LEVITON: Percentage, please.

6 THE WITNESS: I can only --

7 CHAIRMAN LEVITON: See you're asking

8 me --

9 THE WITNESS: No, no. I understand  
10 exactly --

11 CHAIRMAN LEVITON: The question is for  
12 the use variance and I want to know, how much do you  
13 think, you're a tenant, you're not an applicant, but  
14 how much am I going to be allowing here? What is it  
15 that -- I'm not even allowing because, again, it's  
16 not in our ordinance but I want, for the township's  
17 sake, for the residents' sake, for the  
18 neighborhood's sake to know what it is that you  
19 expect that's really going on there, on the record.

20 ATTORNEY PAPE: If I may, how long  
21 have you been in the watch business before being  
22 involved in the video industry, how long have you  
23 been in the watch business?

24 THE WITNESS: 27 years.

25 ATTORNEY PAPE: How long have you been

1 in the video business?

2 THE WITNESS: 2020 -- '22 we started.

3 ATTORNEY PAPE: Two years,  
4 three years.

5 THE WITNESS: Yes.

6 ATTORNEY PAPE: If the video business,  
7 which if it lasts, wonderful, if it doesn't last,  
8 are you still operating the first item that you  
9 listed was on-site and online wholesale and retail  
10 sales of jewelry watches and parts together with  
11 administrative offices and support for same; is that  
12 the core industry?

13 THE WITNESS: Yes, it is.

14 ATTORNEY PAPE: If the video industry  
15 goes away some day, is that the industry that you  
16 would keep at this business?

17 THE WITNESS: Absolutely.

18 PLANNER BEAHM: So vice-versa, what  
19 happens if the video industry takes off and that  
20 becomes your primary business?

21 THE WITNESS: It's already taken off.

22 PLANNER BEAHM: Ken, I appreciate what  
23 you're trying to do, but that's not the question.  
24 The question is percentage.

25 CHAIRMAN LEVITON: Mr. Pape, I respect

1 that also but respectfully, sir, I mean, content  
2 creation with three million followers. I'm not an  
3 expert. And I really got no idea but it could  
4 translate into millions of dollars. He has 3  
5 million followers.

6 ATTORNEY PAPE: I was looking to give  
7 him foundation to him before he answered the  
8 question what his percentages are now.

9 CHAIRMAN LEVITON: This board accepts  
10 this man's credentials and we respect them  
11 completely.

12 ATTORNEY PAPE: Today, June 2024, what  
13 percentage of your time is spent in the video  
14 business and what percent -- and all this video is  
15 watch and jewelry; let's re-affirm that?

16 THE WITNESS: Yes.

17 ATTORNEY PAPE: Everything is watch and  
18 jewelry, as a foundation.

19 But the actual sales of watches,  
20 appraisals of watches, sales of watches and parts,  
21 what percentage of your business is that and what  
22 percentage is the video?

23 THE WITNESS: I would say -- and I  
24 have to be base it on numbers. It's 90 percent of  
25 our business is buying and selling watches.

1                   The content creation accounts for -- I  
2     have to use numbers -- maybe 10 percent of our  
3     revenue. And that's how I have to quantify it.

4                   CHAIRMAN LEVITON: I'll accept that.

5                   I have nothing further, board.

6     Anybody else?

7                   ENGINEER LOPEZ: Mr. Chairman, I have  
8     a couple of questions I would like to clarify.

9                   CHAIRMAN LEVITON: Why don't you hold  
10    off until Mr. Dean makes his presentation?

11                  ENGINEER LOPEZ: Oh, it's relative to  
12    this.

13                  CHAIRMAN LEVITON: Then please  
14    continue, yes.

15                  ENGINEER LOPEZ: So you've testified  
16    that the hours of operation would go to 10:00 p.m. I  
17    just want you to -- have you confirmed that again.

18                  Because our concern is, A, I don't know  
19    how you would enforce -- let's say you're filming  
20    videos and you go past 10 and we are having these  
21    lights shut off at 10:30; so what if you go past  
22    that 10:00 o'clock and those lights shut off?

23                  Are they on timers or are they manually  
24    shut off.

25                  ATTORNEY PAPE: We would have them on

1 timers so there was assurance that they went off.

2 And the answer is -- and Mr. Rizzo  
3 actually raised this with me -- Mr. Buckley has  
4 stated he will close his business at 10 o'clock. No  
5 matter what business activity is taking place, it  
6 closes at 10 o'clock. It will not go past  
7 10 o'clock.

8 We don't want to have -- we want to  
9 make the commitment that the lights are off at 10:30  
10 and we don't want people walking out in the dark.

11 MEMBER WEISS: That's the exterior  
12 lights at 10 or 10:30?

13 ATTORNEY PAPE: Yes.

14 MEMBER WEISS: But we all know that we  
15 can walk in a dark parking lot.

16 So with that being said, is there any  
17 thought to putting the interior lights on timers?

18 THE WITNESS: If need be we can, sure.  
19 We have an insurance obligation also and we have to  
20 state hours of operation and what we're doing and we  
21 have to adhere to that strictly.

22 MEMBER WEISS: I understand that. Let  
23 me be frank, Mr. Buckley. I'm not concerned about  
24 you; I'm concerned about the other things that I  
25 have seen from your partners.



1                   That's my concern, as it relates to  
2                   that neighborhood behind the building.

3                   CHAIRMAN LEVITON:   And, Mr. Weiss, you  
4                   have seen videos, is what you're referring to?

5                   MEMBER WEISS:   Publicly available  
6                   online.   Anybody with an internet connection can see  
7                   them.

8                   CHAIRMAN LEVITON:   Okay.

9                   MEMBER POCHOPIN:   Mr. Chair?

10                  CHAIRMAN LEVITON:   Yes.

11                  MEMBER POCHOPIN:   With all this -- all  
12                  these statements, that was my main concern also.   I  
13                  know that your credibility, and you're vouching to  
14                  adhere to all these things that the board is  
15                  recommending, I have the same concern about policing  
16                  what my colleague brought up, to make sure -- I know  
17                  you're going to do the right thing, if you see these  
18                  things going on, everybody brought up.

19                  But that's the big concern about  
20                  policing, there's so many different branches on  
21                  who's doing what, so that's the only concern.

22                  CHAIRMAN LEVITON:   Mr. Pape, I don't  
23                  really know how much importance you want to place on  
24                  Mr. Dean's testimony, but if you proffer that he's  
25                  going to be complying and work with Mr. Rizzo and

1 CME and anything --

2 PLANNER BEAHM: Well, he has to put  
3 the use variance testimony on the record.

4 CHAIRMAN LEVITON: Okay. As a  
5 planner, he needs to do that.

6 PLANNER BEAHM: But I would --  
7 respectfully, I would ask for a restroom break.

8 CHAIRMAN LEVITON: So why don't we do  
9 that? We're going to take five minutes. We'll hear  
10 from Mr. Dean in a concise manner. And then the  
11 board is going to discuss one of the things and its  
12 concerns for everyone's edification.

13 ATTORNEY PAPE: Very good.

14 CHAIRMAN LEVITON: So this board is  
15 now in recess for ten minutes.

16 ATTORNEY PAPE: Thank you.

17

18 (A recess is taken at 9:26 p.m.)

19

- - -

20 (Time noted, 9:37 p.m.)

21

22 CHAIRMAN LEVITON: I'm going to call  
23 this meeting back to order and we're going to  
24 recognize the applicant's planner and engineer, who  
25 is going to be putting onto the record the proofs

1 for the use variance.

2 Mr. Dean, welcome, sir.

3 GARY DEAN: Good evening.

4 CHAIRMAN LEVITON: Good evening.

5 ATTORNEY MARMERO: We'll get you sworn  
6 in, sir. Would you state your name for the record  
7 please?

8 GARY DEAN: Certainly. Gary Dean,  
9 D-E-A-N.

10 ATTORNEY MARMERO: And do you swear  
11 the testimony you will provide tonight will be the  
12 truth, the whole truth, and nothing but the truth?

13 GARY DEAN: Yes, I do.

14 ATTORNEY MARMERO: Okay. Could you --  
15 did you want to list cities you've testified  
16 in before --

17 ATTORNEY PAPE: I think he has placed  
18 his credentials on the record.

19 CHAIRMAN LEVITON: The board accepts  
20 his credentials.

21 GARY DEAN: Thank you, Mr. Chairman.

22 - - -

23 E X A M I N A T I O N

24 - - -

25 THE WITNESS: I'm a licensed engineer

1 and planner, both are in good standing. I have been  
2 practicing in New Jersey Land Use for 40-some-odd  
3 years. And while not a New Jersey native, I proudly  
4 can call New Jersey my home. However, born and  
5 raised in Massachusetts.

6 Given tonight is the first night of  
7 the NBA Finals, I will say if I get cut, I will  
8 bleed green.

9 So that aside, I maintain an office in  
10 Ocean Grove, as well as Somerville, New Jersey. I  
11 have appeared in Manalapan. I think my appearances  
12 were principally before the planning board.

13 CHAIRMAN LEVITON: Thank you,  
14 Mr. Dean.

15 ATTORNEY PAPE: Thank you. Mr. Chair,  
16 I'm going to ask for permission -- you, a few  
17 moments ago, indicated that with regard to  
18 engineering testimony that there could be an  
19 abbreviated presentation.

20 If that's not offensive to any board  
21 members, what we can do from the engineering  
22 perspective is just introduce the exhibit to you,  
23 identify it as existing conditions, and make a  
24 commitment that we will address the outstanding  
25 requirements of your professional staff.

1 CHAIRMAN LEVITON: Absolutely.

2 ATTORNEY PAPE: Is that acceptable?

3 CHAIRMAN LEVITON: Oh, completely.

4 ATTORNEY PAPE: Okay.

5 CHAIRMAN LEVITON: And for stepping on  
6 your toes, forgive me. I'm not solving a war.

7 THE WITNESS: I have three exhibits,  
8 possibly five, but I will start with the first,  
9 which is an aerial photograph of the subject  
10 property. I think A-2?

11 ATTORNEY PAPE: A-3.

12 THE WITNESS: Wasn't there an A-1?

13 SECRETARY MOENCH: We have A-2, so  
14 this would be A-3. So this was not sent to me  
15 digitally, correct?

16 THE WITNESS: It's just a colored  
17 paragraph, an aerial.

18 No, it has not been sent previously.

19 SECRETARY MOENCH: So if you wouldn't  
20 mind, if you could send it to me digitally after?

21 THE WITNESS: I certainly will.

22 ATTORNEY PAPE: Yes.

23 THE WITNESS: Thank you for that. You  
24 got it.

25 SECRETARY MOENCH: Yes, that's A-3.

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(Exhibit A-3, Colored Aerial  
Photograph, was marked for identification.)

THE WITNESS: So A-3 is nothing more --  
just to orient the board, although I suspect you're  
familiar, Route 9 is to the right featured in  
yellow. Briar Hill Road runs horizontal across this  
exhibit.

Plaza 9, which is the unusual sort of  
slip ramp that leads to Route 9 south, forms the  
western and southern boundaries of the subject  
property.

And the site itself is essentially this  
island in between all of that roadway.  
Interestingly enough, as such, it basically is  
surrounded on all sides by roads. So then it  
becomes front yard, rear yard. That's a zoning --  
an interesting element of zoning, but for -- I'll  
say just orientation purposes, we'll consider  
Route 9 to be the front yard.

The subject property, and I am going to  
move from this quickly for efficiency, the subject  
property is developed with a former drive-in bank.  
All of the improvements would remain unchanged with

1 the subject application.

2 And I have presented a colored exhibit  
3 that is the site plan that we submitted as part of  
4 the application prepared by me. It features the  
5 zoning table and the general information.

6 This was based on a combination of  
7 actual site survey that was conducted within the  
8 past 18 months to two years, and then the zoning  
9 information from the prior approvals for the bank.

10 ATTORNEY PAPE: A-4?

11 THE WITNESS: Thank you.

12 ATTORNEY PAPE: Rendered.

13

14 (Exhibit A-4, Rendered Site Plan, was  
15 marked for identification.)

16

17 THE WITNESS: You will see  
18 approximately half the site on the western side  
19 remains undeveloped in green. The building itself  
20 is shown in brown and in a lighter brown tone I have  
21 shown the sidewalk, a pedestrian network surrounding  
22 the site. The gray area is existing blacktop.

23 To the east of the building is the  
24 overhead canopy that features somewhat of a  
25 decorative tower, if you will, that previously

1 served as part of the drive-thru window components.

2 All of the drive-thru, the pieces are  
3 there, and the window itself that was the outboard  
4 has been closed and shuttered. But as you have  
5 heard represented, the drive-thru elements will be  
6 removed if the board favorably considers the  
7 application.

8 The traffic flow on the site is  
9 somewhat interesting in that it flows from north to  
10 south, so that all of the traffic and I suspect it  
11 was done for the bank with the drive-thru, in that  
12 customers would approach the westerly driveway,  
13 proceed in a southerly direction of the drive-thru,  
14 and then exit out to Plaza 9, which is only one way.  
15 So that is intended to direct traffic to Route 9  
16 South.

17 The applicant -- this is essentially a  
18 retency. As you heard, Mr. Buckley wishes to move  
19 his business into the building.

20 Well, rather than taking down the  
21 overhead canopy and the tower, which, you know,  
22 aesthetically has some nice appeal, I had the idea  
23 that in lieu of the four drive-thru spaces, it would  
24 make for nice covered parking.

25 So our plan does show, nothing more



1 than to simply park cars instead of them being there  
2 temporarily for the drive-thru, they would be there  
3 just so the occupants have access to their vehicles  
4 outside the building.

5 All of the other features and parking  
6 would remain as is. I forget the total parking  
7 count but it's 27 spaces. And so 27 striped in the  
8 lot with the four underneath yields 31.

9 As you have heard from the testimony, I  
10 think it was six, possibly, with a part-time  
11 technician, no more than seven. So parking is not  
12 an issue.

13 And then the last exhibit, which does  
14 relate to the site and the environs, it's simply the  
15 land use that is surrounding the subject property.

16 Again, another exhibit which will be  
17 A-6.

18 SECRETARY MOENCH: A-5.

19 THE WITNESS: I'm sorry, A-5.

20 SECRETARY MOENCH: So I just want to  
21 review: A-1 is the floor plan.

22 A-2 is the security system.

23 A-3 was the overhead colored rendering.

24 A-4 was your colored rendering of the  
25 site plan.

1 THE WITNESS: Correct. Thank you.

2 ATTORNEY PAPE: Yes.

3 THE WITNESS: What we've done,  
4 again --

5 ATTORNEY PAPE: A-5.

6 THE WITNESS: The aerial on A-5 is the  
7 same as featured on A-3, the only distinction is the  
8 use of each property surrounding the subject site  
9 has been identified with the tenants in each one of  
10 those and all of them are commercial; they are not  
11 residential uses.

12 So the subject property itself on all  
13 of its borders is surrounded by non-residential uses  
14 and activities.

15

16 (Exhibit A-5, Colorized Aerial  
17 Photograph with tenant details, was marked.)

18

19 MEMBER WEISS: Mr. Dean?

20 THE WITNESS: Yes.

21 MEMBER WEISS: If I may what is the  
22 closest home or where is the closest home to the  
23 subject property?

24 THE WITNESS: I believe it would be  
25 the house and I'm pointing to Exhibit A-5, but it

1 would be to the west or to the left of what has been  
2 identified as Number 6, which is 24 Plaza 9.

3 MEMBER WEISS: Is there a reason why  
4 you didn't highlight that as being noncommercial or  
5 residential?

6 THE WITNESS: No, it is residential.  
7 What I have done is highlight the commercial uses;  
8 the non-residential uses. Everything else to our  
9 west that's off of the exit is residential.

10 So with that, just for context, you  
11 have heard from the applicant in terms of their  
12 intended use, which is not permitted in your OP  
13 zone.

14 The OP zone does permit certain  
15 commercial uses that are not office that include the  
16 former bank, that include medical office, business  
17 offices, childcare centers, fitness, health clubs,  
18 dance studios and medical labs.

19 In addition to the plan that our office  
20 prepared as part of the completeness review on  
21 February 20th, I prepared a traffic summary  
22 outlining what I would characterize are the benefits  
23 of this application.

24 So when it was developed it was a bank.  
25 And in 1999 or so, when banks were a little bit

1 different than they are today, a typical drive-in  
2 bank using industry standard traffic rates would  
3 have generated in the morning not a lot of traffic,  
4 maybe 20 vehicles an hour in and out.

5           And then we get into the evening, you  
6 know, particularly before internet banking took off  
7 and the like, 80 customers on a typical, you know,  
8 Friday, cash the paycheck, would have been fairly  
9 typical. And I contrasted that with the traffic  
10 associated with other permitted uses in the OP zone.

11           And I would submit that other than a  
12 straight business office, which I would -- to me is  
13 analogous to what is proposed, all of the other uses  
14 in the OP zone, should the building be reoccupied by  
15 a tenant otherwise permitted, would be more traffic  
16 intensive than the proposed use.

17           And so with an eye towards always  
18 managing traffic impacts in a community, certainly  
19 something that keeps that activity suppressed as  
20 much as possible, I think advances one of the  
21 purposes of zoning that I will cover in a moment.

22           So on net balance either between what  
23 it was or what it could be, I think the use is  
24 superior in that sense.

25           The applicant is seeking relief as a

1 use that is not expressly permitted in the zone. I  
2 would call it a specialty retail use. Although it  
3 has a certain office element, as you have heard from  
4 Mr. Buckley with his staff, you know, evaluating,  
5 appraising, things of that nature, but then we have  
6 this content creation, or sort of media production  
7 element.

8 I was certainly encouraged to hear that  
9 that only represents a small percentage of the  
10 activity, 10 percent or so, that 90 percent would be  
11 associated with obviously very limited retail sales,  
12 the appraising element of the business, and I would  
13 submit, general consulting as would typically be  
14 found in an office environment.

15 So in terms of being as close to  
16 compatible with the uses permitted in the OP zone, I  
17 think we're very close. Obviously, retail sales is  
18 not permitted, but this is not intended to be a  
19 convenience store, or a Dick's Sporting Goods, or a  
20 traditional retail. It is very limited. And I  
21 would say the relief that is being sought, I will  
22 leave it to the board, the applicant is seeking, I  
23 would say, future flexibility, in terms of, you  
24 know, if it were a boutique dress, you know, maker,  
25 something of that ilk would give that -- would allow

1 for future flexibility in terms of leasing.

2 But if it is only this tenant that the  
3 board, I'll say, will permit subject to future  
4 tenancy review, I certainly understand that. But  
5 the intent would be very -- you know, how do I call  
6 it -- specialty, unique land uses. If someone  
7 wanted to restore antique musical instruments, to me  
8 that's akin to the proposal. But it would not be  
9 traditional highway retail.

10 The site is somewhat unique in that it  
11 doesn't have a highway driveway. It only accesses  
12 is on Briar Hill.

13 So that does segue into a certain  
14 element that I don't mean to jump ahead in my order,  
15 but the signage and the identification.

16 The site does feature -- and I guess I  
17 do have one more exhibit -- the site does feature,  
18 as I'm sure the board is aware, a rather large  
19 overhead or a pylon sign that is -- I have a detail  
20 on my plan -- but it's 18-and-3-quarters-feet tall.  
21 The overall sign is just under 40 square feet.

22 And, I'm sorry, I have one more  
23 exhibit. I might have two. But the next exhibit is  
24 just a photograph, nothing more than what I call a  
25 street view photograph looking southwesterly from

1 traveling south on Route 9.

2 Briar Hill Road is just to the bottom  
3 of the page and Route 9 is to the left. And you  
4 will see the sign that the panel has been replaced.  
5 That's simply an access for these five --

6 PLANNER BEAHM: Mr. Dean, I thought  
7 Mr. Pape had indicated at the beginning of tonight  
8 that sign was going to be replaced with a monument  
9 sign?

10 THE WITNESS: That is correct.

11 ATTORNEY PAPE: Yes.

12 THE WITNESS: And so my next exhibit --

13 CHAIRMAN LEVITON: Mark it A-7.

14 ATTORNEY MAMERO: That's A-6.

15 THE WITNESS: A-6?

16 SECRETARY MOENCH: A-6.

17

18 (Exhibit A-6, Street-view photograph,  
19 was marked for identification.)

20

21 THE WITNESS: I say that, Ms. Beahm,  
22 thank you, just to segue into that very point, which  
23 is the -- as the chairman and board made clear, the  
24 preference -- and I just have, I guess this is  
25 A-7 -- nothing more than a very crude but simplified

1 Photoshop rendering of taking that blue sign on the  
2 big post at 18-and-3-quarters and putting it on the  
3 ground as your ordinance requires.

4

5 (Exhibit A-7, Photograph of proposed  
6 sign, was marked.)

7

8 THE WITNESS: By using that same panel  
9 -- and I guess this is where we would like relief,  
10 only due to the economics of taking that down --  
11 when I say "that," the sign.

12 The sign height itself is 4.17 feet.  
13 The maximum height permitted for your ground-mounted  
14 signs is 4 feet. So --

15 PLANNER BEAHM: But in reality, you're  
16 not going to take the sign face and put it on the  
17 ground; you're going to create a new sign.

18 It should be compliant.

19 CHAIRMAN LEVITON: Well, he's  
20 testifying that they're going to do that.

21 THE WITNESS: I don't know what the  
22 Sitar's ultimate objective is.

23 PLANNER BEAHM: Okay, but what I am  
24 suggesting, Mr. Pape, is that you're creating a new  
25 ground-mounted monument sign. It should be



1 compliant in area and setback, period. It's new.

2 CHAIRMAN LEVITON: You know, I have no  
3 problem with what he's suggesting. If they take the  
4 pole away --

5 PLANNER BEAHM: They're not going to  
6 take the face of that pole-mounted sign and put it  
7 on the ground, it's physically impossible. They're  
8 going to have to create a new sign.

9 ATTORNEY PAPE: The actual face of the  
10 sign can be saved and can be --

11 PLANNER BEAHM: I would not advocate  
12 for that.

13 This is a use variance for a high-end  
14 watch dealer. The site requires a ground-mounted  
15 sign. There is literally no planning justification  
16 -- other than economics, which we cannot consider --  
17 to allow for a non-conforming sign, which if they're  
18 going to put a new sign, it should be compliant.

19 CHAIRMAN LEVITON: Thank you for that.  
20 Duly noted.

21 THE WITNESS: So for the remaining  
22 relief, we are here seeking a D(1) use variance and  
23 I'll thank Ms. Beahm, as always, for her thorough  
24 review of the application, particularly as it  
25 outlines the proofs that are required.

1                   This is a pre-existing building that  
2 has a variety of, I'll say, grandfathered or  
3 otherwise, permitted areas relative to front yard  
4 parking and things of that nature.

5                   As is necessary for a use variance, we  
6 have to first identify are there special reasons.  
7 As a Board of Adjustment I would submit that your  
8 job is basically to say no to applications, unless  
9 there are compelling or special reasons that warrant  
10 the grant of the use variance. That then needs to  
11 be balanced with what is called a negative criteria,  
12 which are the impacts on the surrounding area.

13                   In terms of the positive criteria or  
14 special reasons, I would first submit the general  
15 unreasonableness of not granting the relief. And  
16 the reason is, this was a special purpose building  
17 for a bank; it has sat vacant for now, I believe  
18 it's in its third year.

19                   And due to the changes in work  
20 environment and leasing in general, both banks are  
21 no longer a favored or popular land use. Simply  
22 stated, banks aren't opening, they're, in fact,  
23 contracting.

24                   And secondarily, there's no office  
25 market since work-from-home mandates, Team, Zoom and

1 people ability to telecommute, that represents a  
2 significant hardship to the property owner in terms  
3 of being able to comply with your zoning standards.

4 The size of the building itself also  
5 represents a hardship in that a health club or a  
6 childcare center just can't use a 2,900 square foot  
7 building.

8 So it's too small for any of those  
9 permitted uses without a further expansion.

10 MEMBER WEISS: Mr. Dean?

11 THE WITNESS: Yes.

12 MEMBER WEISS: Why is it that a  
13 childcare center can't use a 2,900 square foot  
14 building?

15 THE WITNESS: The economics of the  
16 building and the cost.

17 A childcare center of that footprint  
18 would fit maybe 40 kids. The typical childcare  
19 centers now that are being built have capacities of  
20 180 or so, are 10,000, 11- and 12,000 square feet.  
21 So at 2,900, this is well below that.

22 PLANNER BEAHM: But it could be  
23 demolished and reconstructed.

24 THE WITNESS: Oh, no question.

25 PLANNER BEAHM: I would just request

1 that instead of this whole montage into what you  
2 can't do, what goal of zoning are you advancing?

3 THE WITNESS: Sure, okay. Particular  
4 suitability of the site for the use.

5 PLANNER BEAHM: That's not what I  
6 asked. What goal of zoning are you advancing? Not  
7 special reasons.

8 What you've provided me right now has  
9 not met that burden; you have not given me one goal  
10 of zoning you're advancing.

11 CHAIRMAN LEVITON: He needs a  
12 particular suitability.

13 PLANNER BEAHM: Particular suitability  
14 is a separate prompt; goal of zoning is special  
15 reasons.

16 That's what we started out; what goal  
17 of zoning are you advancing?

18 THE WITNESS: Sure. I would submit  
19 that the purpose of zoning, among other issues and I  
20 started with traffic, is that this is a use that  
21 does not promote traffic. And so under Subsection  
22 45D-2, H is a use that does not promote undue  
23 traffic congestion or blight.

24 I think it provides a good civic  
25 arrangement in terms of reusing the building that's

1 already been constructed. It does not require  
2 demolition.

3 I would submit that the use itself is  
4 consistent, generally, with what is otherwise  
5 expected in the zone, and that the zone can't  
6 possibly encompass things such as media content  
7 creation in that it is looking at where we are in  
8 terms of current conditions that, I would say, can't  
9 be envisioned.

10 CHAIRMAN LEVITON: Ms. Beahm, do you  
11 take exception to the advancement of those?

12 PLANNER BEAHM: I take exemption to  
13 the last one, 100 percent. Because there's no goal  
14 of zoning that -- like the goals of zoning are A  
15 through whatever, and the last one you just brought  
16 up is not even on there at all.

17 So, you know, there are -- there are  
18 statutory requirements in justifying a use variance,  
19 as you know. One is the special reasons.

20 So you said H. What civic arrangement;  
21 what purposes is that?

22 THE WITNESS: A good civic design. I  
23 believe that one is either J or G, I can't say I've  
24 committed to memory each one of those zoning  
25 standards. But it is to create a desirable, visual

1 environment --

2 PLANNER BEAHM: That's not the same.  
3 That's a different goal of zoning.

4 THE WITNESS: It's still a goal of  
5 zoning, correct?

6 PLANNER BEAHM: I agree.

7 THE WITNESS: Okay.

8 PLANNER BEAHM: But that's not the  
9 same as civic arrangement. That's a totally  
10 separate goal of zoning.

11 CHAIRMAN LEVITON: He's citing it now.

12 THE WITNESS: Appropriate uses for a  
13 mixture for a variety of uses such as residential,  
14 commercial, office, in appropriate locations, I  
15 believe is the purpose of zoning.

16 PLANNER BEAHM: Mr. Chair, I get it.

17 CHAIRMAN LEVITON: Well, he may be all  
18 over the place and he may not be answering the  
19 questions as they're being asked, but he satisfied  
20 an advancement of the MLUL, right?

21 PLANNER BEAHM: I mean, I'm going to  
22 reserve my opinion on that because I don't  
23 necessarily agree with all of these goals of zoning  
24 that he's citing, but he needs to cite them.

25 Like, I understand that there's all

1 these other ancillary things that come up, but  
2 there's statutory requirements that this applicant  
3 is obligated to provide. And in the event that  
4 someone were to challenge any action that this board  
5 takes, we have to make sure that they're providing  
6 the requisite information.

7 So he's here as a planner, so he needs  
8 to provide planning testimony.

9 CHAIRMAN LEVITON: So I'm going to  
10 sustain that, Mr. Dean, and ask you to be specific  
11 about which -- which zoning purposes you are  
12 advancing, A through whatever?

13 H didn't have to do with  
14 transportation routes. So we're given that one.

15 THE WITNESS: Under 40:55D-2, we will  
16 say E, "to promote the establishment of appropriate  
17 population densities and concentrations that will  
18 contribute to the well-being of persons,  
19 neighborhood, communities, regions and preservation  
20 of the environment."

21 And I cite "preservation of the  
22 environment" in that the building is here; it  
23 requires no construction, no removal of trees, no  
24 demolition of anything. It preserves it as is and  
25 that it is a creative rehabilitation or reuse of the

1 building that exists.

2 Subsection G, is the one that I had  
3 cited, which is "to provide sufficient space in  
4 appropriate locations for a variety of stated uses  
5 in order to meet the needs of all New Jersey  
6 citizens." I'll leave it to you whether a  
7 specialized watch appraisal and sales meets the  
8 needs of all citizens, but it is an appropriate  
9 location for the use. It's not in a residential  
10 neighborhood; it is on the highway that enjoys  
11 convenient and free access, similar to the bank.

12 Subsection I is "to promote a  
13 desirable visual environment through creative  
14 development techniques." Well, the building is  
15 there. So while it's there, the suggestion that it  
16 could be demolished for a permitted use, I will  
17 leave it to you to gauge the aesthetics of the  
18 building and whether that is something you would  
19 seek to preserve.

20 CHAIRMAN LEVITON: Okay.

21 THE WITNESS: Beyond that I --

22 CHAIRMAN LEVITON: So that's fine.

23 Let's defer to Ms. Beahm.

24 THE WITNESS: Thank you, Mr. Chair.

25 CHAIRMAN LEVITON: Jennifer, he has E,



1 G, H, and I.

2 PLANNER BEAHM: So I'm just going to  
3 start. "Promote a desirable visual environment."  
4 The building is there. You're doing nothing to  
5 enhance it. There's no increased landscaping, there  
6 is no aesthetic improvement to the building. You  
7 going in this building does not change the  
8 aesthetics.

9 I don't subscribe that that's promoting  
10 anything.

11 THE WITNESS: But for the sign.

12 ATTORNEY PAPE: It's a preservation of  
13 aesthetic.

14 PLANNER BEAHM: The sign that I just  
15 beat you into submission for?

16 THE WITNESS: We heard that at the  
17 last hearing. The sign and -- I'm sorry.

18 PLANNER BEAHM: Secondly, "to  
19 encourage location and design of transportation  
20 routes to promote free flow of traffic." How  
21 exactly is the occupancy of this building "changing  
22 or encouraging the location and design of  
23 transportation routes which will promote the free  
24 flow of traffic"?

25 You're on a highway. You're doing

1 nothing; you're creating no transportation  
2 improvements with respect to this. You're not  
3 changing the parking lot. You're not changing the  
4 circulation. I don't subscribe that that's being  
5 advanced. I think it's -- you're on the highway, it  
6 is what it is.

7                   So, like, I understand that, you know  
8 -- and then the population density argument, I don't  
9 understand how this -- a nonresidential development  
10 has anything to do with population density at all.

11                   So I just feel like it's a stretch.  
12 You know, you may -- I would suggest maybe  
13 appropriate development and appropriate location,  
14 that may be something that could be advanced here,  
15 but the other ones, I don't -- like, I think  
16 you're --

17                   CHAIRMAN LEVITON: That's interesting  
18 that you would take G, because it has to do with  
19 agriculture and recreation.

20                   PLANNER BEAHM: But it also has to do  
21 with residential, commercial, everything. It's not  
22 everything, it's --

23                   CHAIRMAN LEVITON: Okay. So then it's  
24 been offered and you're going to accept I, right?  
25 Well, you have to take I.

1 PLANNER BEAHM: I don't have to take  
2 I. I don't.

3 CHAIRMAN LEVITON: Well --

4 PLANNER BEAHM: They're not doing  
5 anything to improve the aesthetics.

6 CHAIRMAN LEVITON: He testified, and  
7 it made sense to me, that occupying an empty  
8 building, one that has been so for three years, with  
9 the limited prospects of getting someone else to do  
10 so in today's business environment, for the reasons  
11 he enumerated, makes better sense. And it is  
12 visual.

13 PLANNER BEAHM: I mean, I get it.  
14 Listen, you can take my professional advice or not,  
15 that's up to you. But what I'm saying to you is  
16 that in a use variance situation, when you're  
17 promoting a desirable visual environment, there has  
18 to be an aesthetic improvement.

19 They are not providing -- they are not  
20 proposing one shrub, tree, blade of grass.

21 CHAIRMAN LEVITON: But they are taking  
22 down the pole.

23 PLANNER BEAHM: Okay.

24 CHAIRMAN LEVITON: And that to me,  
25 that's a big deal to me.

1 PLANNER BEAHM: Okay. But I don't  
2 subscribe that that's enough to qualify under that.

3 They don't have to meet everything;  
4 they have to meet one.

5 CHAIRMAN LEVITON: And they have one,  
6 you're giving them G.

7 PLANNER BEAHM: I understand that.

8 CHAIRMAN LEVITON: Okay.

9 PLANNER BEAHM: What I'm saying is, is  
10 that the testimony that has been provided to me in  
11 all this plethora of reasons, a daycare center could  
12 go into that building, much to Adam's argument, and  
13 it would be the same situation.

14 Like this use is not changing the  
15 scenario. They're not improving the aesthetic. If  
16 they wanted to promote the desirable visual  
17 environment, maybe add a shrub.

18 Or is there going to be landscaping  
19 around this proposed sign -- that before was just  
20 going to be the sign face that was on the pylon down  
21 on the ground, and now it's going to be a monument  
22 sign; is there going to be landscaping by it?

23 Like, you have to promote desirable  
24 change.

25 CHAIRMAN LEVITON: Mr. Pape?

1                   PLANNER BEAHM: You can't just say the  
2 building is there.

3                   CHAIRMAN LEVITON: Mr. Pape?

4                   ATTORNEY PAPE: If I may, with regard  
5 to the monument sign, we went right into the  
6 planning testimony. We don't have an issue with  
7 complying with the setback, and we don't have an  
8 issue with complying with the sign face. It is a  
9 hardship and we could have used the sign, but we  
10 will comply.

11                   What I would suggest, though, and I'd  
12 ask of the board, is an opportunity to put the  
13 monument on a 30-inch-high base so that we have an  
14 opportunity to do four sides of landscaping around  
15 the base. And that would take a 4-foot sign, the  
16 height of the sign, and it would make it  
17 6-and-a-half feet.

18                   Six-and-a-half-foot monument with a  
19 fully landscaped base is the offer that is made, and  
20 we use the same sign face.

21                   CHAIRMAN LEVITON: Jennifer?

22                   PLANNER BEAHM: I mean, I think that  
23 the base is fine with the landscaping around it, but  
24 I think -- like, listen, this is a high-end  
25 business. I think if they're really looking to make

1 an impression in Manalapan, taking that sign face  
2 that was on the pylon sign and just putting it on  
3 the ground, I think you could do better.

4 ATTORNEY PAPE: We just agreed that we  
5 would do that.

6 PLANNER BEAHM: Okay, that's fine.

7 CHAIRMAN LEVITON: Okay.

8 ENGINEER LOPEZ: Mr. Chairman, if I  
9 could...

10 CHAIRMAN LEVITON: Mr. Lopez, yes.

11 ATTORNEY PAPE: Well, he is in the  
12 middle of his testimony. Maybe he could conclude  
13 his testimony?

14 ENGINEER LOPEZ: I was just relating  
15 to the landscaping that we were recommending.

16 I know you guys were requesting design  
17 waivers because you're not really proposing to do  
18 anything, but I do at least recommend taking a look  
19 at adding some landscaping along the parking spaces  
20 that front along Route 9, just to provide some  
21 shielding or screening for any headlight glare for  
22 any vehicles travelling up and down that highway.

23 ATTORNEY PAPE: Mr. Lopez, if it's  
24 acceptable to your office and the board, we'll meet  
25 with Shari Spero, the arborist for the municipality,

1 at the site and will follow her good guidance on  
2 landscaping supplements.

3 ENGINEER LOPEZ: That works.

4 CHAIRMAN LEVITON: Thank you for the  
5 suggestion, and for the concession.

6 THE WITNESS: One of the other  
7 improvements, Mr. Chairman, that was requested was a  
8 sidewalk. And that certainly promotes general  
9 health, safety and welfare. While not shown on the  
10 plans, it was done intentionally because our  
11 proposal, where it makes the most sense is to put it  
12 within the DOT right-of-way so it's not on the  
13 subject premises itself.

14 But in discussion with the applicant,  
15 with the understanding that it is limited to our  
16 frontage and, obviously, subject to DOT approval,  
17 that that amenity would be added to the plan as  
18 well.

19 CHAIRMAN LEVITON: Good decision.

20 MEMBER WEISS: Can I ask Mr. Dean a  
21 question?

22 CHAIRMAN LEVITON: You may. Let me  
23 first point out, it's 10:10 almost. This board  
24 usually has a hard limit of 10:30. We're getting to  
25 the end.

1 I want to go out to the public. I want  
2 to satisfy all of my board members. I want to go to  
3 Mr. Marmero, who needs to put on the record the  
4 conditions, and I want summation from my  
5 professionals.

6 And then I want to discuss here any  
7 concerns that you may have because some of the  
8 questioning from you has indicated that you don't  
9 support this application, which I understand.

10 But I want to put it out there and do  
11 all of that in the next 20 minutes.

12 MEMBER WEISS: Mr. Dean, very quickly.

13 THE WITNESS: Yes, sir.

14 MEMBER WEISS: A-5, I'm not asking you  
15 to go to it, but A-5 was the overhead of the ten or  
16 so businesses in the area.

17 THE WITNESS: Correct.

18 MEMBER WEISS: Can you, from memory,  
19 tell us what those businesses currently are or the  
20 types of businesses that they currently are?

21 ATTORNEY PAPE: We have them listed.

22 THE WITNESS: They are listed.

23 MEMBER WEISS: Because I don't have  
24 that -- I don't have the copy of that with me here.

25 ATTORNEY PAPE: I'm not going to



1 testify but I can read it.

2 MEMBER WEISS: Yeah, if you could just  
3 read it.

4 ATTORNEY PAPE: One: 189 Plaza 9, A&E  
5 Kitchen and Bath; Envision Acne & Skin Care Center;  
6 Tiny Tots Therapy & Pediatric Specialists.

7 Two: 16 Plaza 9 is Faktor,  
8 F-A-K-T-O-R; a dentist.

9 Three: The K&E building, K&E  
10 Engineering; K&E Hy-Teck; K&E Gamatron; and Cirangel  
11 Architects.

12 Four: Chudnoff Associates; marketing  
13 research.

14 Five: Topel & Silver, Certified Public  
15 Accountants.

16 Six: NÜVA Smile; dentist.

17 Seven: Dermatology, Surgery, Cosmetic;  
18 dermatology.

19 Eight: RWJ Barnabas Health Manalapan  
20 Primary Care; Yvonne Kamen ACSW, LCSW; and  
21 Ameriprise Financial.

22 Nine: Center For Advanced Dentistry.

23 Ten: JODE Professional Plaza, and  
24 then a list of the tenants.

25 MEMBER WEISS: Thank you, Mr. Pape.

1                   CHAIRMAN LEVITON: Anything further,  
2 Mr. Dean?

3                   THE WITNESS: Briefly, the applicant  
4 is seeking relief for three, I'll say, bulk  
5 standards. The first one identified in Ms. Beahm's  
6 letter is a buffer to a residential zone.

7                   Across Route 9 is a residential  
8 boundary. According to the zoning map, it's to the  
9 center line of Route 9. And with our site frontage,  
10 I believe we have -- I scaled 60.8 feet from the  
11 property to that zone boundary. So I don't know  
12 that that relief is necessary but again, it's a  
13 preexisting condition.

14                   The second one pertains to the width of  
15 a parking space for ADA.

16                   CHAIRMAN LEVITON: Hold on. Is that  
17 relief necessary, Jen?

18                   PLANNER BEAHM: It is. But I think  
19 what Mr. Dean testified to justifies what they've  
20 requested.

21                   CHAIRMAN LEVITON: Okay, you got that  
22 one.

23                   THE WITNESS: Parking for the ADA  
24 space is governed by New Jersey Barrier-Free Code  
25 and the Department of Justice. So your ordinance

1 doesn't meet the current federal and state  
2 requirements.

3                   So technically we need that relief. I  
4 don't know legally whether state and federal  
5 statutes supersede your local ordinance, but we will  
6 acknowledge that that relief is necessary.

7                   CHAIRMAN LEVITON: Hold on.  
8 Mr. Lopez, any objection?

9                   ENGINEER LOPEZ: I take no exception  
10 to that. He is correct, the federal ordinance is  
11 different than the local ordinance.

12                   CHAIRMAN LEVITON: Thank you, sir.  
13 You got that, too.

14                   THE WITNESS: And secondly, no  
15 required off-street parking or loading can be in a  
16 front yard. And, as I indicated in my overview,  
17 everything on this site is a front yard, so I would  
18 submit that that is a hardship relief that we are  
19 seeking due to the unusual configuration of the site  
20 and is also a preexisting non-conformity for which  
21 we will continue to seek that variance relief.

22                   CHAIRMAN LEVITON: Okay. What kind of  
23 loading is there?

24                   THE WITNESS: I don't think there's  
25 any loading; it's parking. It's parking and

1 loading.

2 CHAIRMAN LEVITON: So then do you take  
3 exception to that, Mr. Lopez?

4 ENGINEER LOPEZ: We take no exception  
5 to that either.

6 CHAIRMAN LEVITON: Okay, good stuff.

7 THE WITNESS: And we've eliminated the  
8 variance request for C, which was the no existing  
9 sidewalk along Route 9 and we will add that.

10 That is all I have, Mr. Chair.

11 CHAIRMAN LEVITON: Okay. Before I go  
12 to the public, can you just speak to the negative  
13 criteria?

14 THE WITNESS: Certainly.

15 CHAIRMAN LEVITON: Because it's where  
16 the concerns emanating from the board are.

17 THE WITNESS: In my opinion, and again  
18 buttressed by, and I appreciate, Ms. Beahm seeking  
19 the foundation from Mr. Buckley for me to conclude  
20 that the granting of the relief, with the caveats  
21 and limitations that were expressed between the  
22 board and the tenant, that the granting of the use  
23 variance would not substantially -- and I focus on  
24 the word "substantially" -- impair the intent and  
25 purpose of your zoning plan or ordinance, in that

1 the use, while commercial, I would submit is very  
2 similar in characteristics to the uses that are  
3 otherwise permitted. The hours of operation would  
4 be similar.

5 CHAIRMAN LEVITON: Mr. Dean, I agree  
6 with all of that, and that is part of negative  
7 criteria, I'm not going to tell you how to do your  
8 job. But the concerns from the board had to do with  
9 damage to the public.

10 THE WITNESS: I was about to get to  
11 that one too.

12 CHAIRMAN LEVITON: Okay.

13 THE WITNESS: And that it is not  
14 equivalent -- the granting of this use variance, in  
15 my opinion, is not equivalent to a rezoning of the  
16 property. It is considering the unique and specific  
17 elements of the proposal in contrast to the zone  
18 plan. And, in my opinion, the relief could be  
19 granted without substantial, again, focusing on  
20 substantial detriment to the public good, which  
21 would be enhanced through suppressing the potential  
22 traffic on the site through the removal of existing  
23 non-conformities related to the sign and the  
24 enhancement of the site as was described through  
25 additional landscaping, sidewalk, and accessibility

1 features.

2 CHAIRMAN LEVITON: Thank you for your  
3 testimony, Mr. Dean.

4 Mr. Pape, before I ask you to summate,  
5 I want to go out to the public to see if there's  
6 anyone in attendance who wants to cross-examine the  
7 testimony that has been offered.

8 Seeing none, I will close public then.

9 And, Mr. Pape, before I go back to you,  
10 I want to get input from the board, and first, I  
11 want to hear from our professionals.

12 Jennifer, overall --

13 ZONING OFFICER BOCCANFUSO:

14 Mr. Chairman, I just have one very specific question  
15 before we get to Jen's.

16 CHAIRMAN LEVITON: Mr. Boccanfuso.

17 ZONING OFFICER BOCCANFUSO: Yes.

18 So with regard to the sign,  
19 specifically and clearly, so that I know because I'm  
20 going to be the one who has to review the  
21 application if there's an approval; what is the  
22 proposed height and the proposed area of the sign?

23 Total height is measured from grade to  
24 the highest element of the sign, and total area of  
25 the sign face.

1                   ATTORNEY PAPE: 6-and-a-half feet,  
2 30 inches of which are the base, and 4 feet of which  
3 is the sign face.

4                   ZONING OFFICER BOCCANFUSO: And the  
5 area?

6                   ATTORNEY PAPE: The area is -- I don't  
7 know what it is but we'll agree that we --

8                   ZONING OFFICER BOCCANFUSO: 30 feet is  
9 permitted, but that would be including the sign  
10 base.

11                   I would imagine you don't want to  
12 include that sign base?

13                   ATTORNEY PAPE: Yes, we would ask for  
14 the size that is permitted, if it's 30 square feet,  
15 but that would be for the sign. And then the base  
16 would be in addition to the sign.

17                   ZONING OFFICER BOCCANFUSO: Understood.  
18 Thank you.

19                   ATTORNEY PAPE: Thank you for that  
20 opportunity.

21                   CHAIRMAN LEVITON: Is that a design  
22 waiver that we're granting?

23                   PLANNER BEAHM: A variance.

24                   ZONING OFFICER BOCCANFUSO: It would  
25 be a variance, yes.

1                   But they have provided -- I'll defer to  
2 Jen, but they have provided testimony that the --  
3 the variance for the height. And to the extent that  
4 the area variance is needed because the base is  
5 included, is to allow them to improve aesthetics by  
6 landscaping around it.

7                   PLANNER BEAHM: And it does that?

8                   PLANNER BEAHM: It does.

9                   ZONING OFFICER BOCCANFUSO: I would  
10 agree.

11                   CHAIRMAN LEVITON: So you understood  
12 my initial concern, and you would support their  
13 offer as it advances what the board would care  
14 about?

15                   PLANNER BEAHM: Yes.

16                   CHAIRMAN LEVITON: Anything else,  
17 Ms. Beahm?

18                   PLANNER BEAHM: No.

19                   CHAIRMAN LEVITON: Mr. Lopez?

20                   ENGINEER LOPEZ: Just a couple of  
21 things.

22                   Since you're not doing any  
23 improvements, I do see that there is existing ADA  
24 spaces and handicap ramps on site. Just confirm  
25 that if we do find that they're not compliant that



1 the applicant agrees to bring them into conformance  
2 with the ADA Compliance Act?

3 ATTORNEY PAPE: ADA is ADA; there's no  
4 variances allowed.

5 ENGINEER LOPEZ: Okay. Just wanted to  
6 get that confirmed.

7 ATTORNEY PAPE: Surely.

8 ENGINEER LOPEZ: And the existing  
9 utilities, you're not making any modifications to  
10 the utilities outside? You're keeping them the  
11 same?

12 ATTORNEY PAPE: Exactly.

13 THE WITNESS: Correct.

14 ENGINEER LOPEZ: And what about  
15 outside agencies, do you guys need to get any  
16 approvals from outside agencies?

17 ATTORNEY PAPE: I don't believe so.  
18 This is a use variance only, it's not a site plan.  
19 The county doesn't take jurisdiction over site  
20 plans.

21 THE WITNESS: One exception.

22 ATTORNEY PAPE: Unless DOT is going to  
23 step in when we go for the sidewalk.

24 THE WITNESS: Thank you.

25 ENGINEER LOPEZ: Okay.

1                   ATTORNEY PAPE: We do need a sidewalk  
2 permit from the DOT.

3                   ENGINEER LOPEZ: I have nothing  
4 further.

5                   CHAIRMAN LEVITON: Mr. Pape, I would  
6 like to ask Mr. Buckley a follow-up question.

7                   ATTORNEY PAPE: Mr. Buckley.

8                   CHAIRMAN LEVITON: Thank you,  
9 Mr. Dean.

10                  THE WITNESS: Thank you for your time  
11 tonight.

12                  CHAIRMAN LEVITON: Mr. Buckley, you  
13 testified that the percent of the business devoted  
14 to content creation was 10 percent and you qualified  
15 that as having been based on financial matters.

16                  JOHN BUCKLEY: Correct.

17                  CHAIRMAN LEVITON: I want to just get  
18 some further clarification as it relates to content  
19 creation. How many days a week do you currently  
20 create content?

21                  JOHN BUCKLEY: The days that we're in  
22 New York, maybe three.

23                  CHAIRMAN LEVITON: So three days a  
24 week you're filming?

25                  JOHN BUCKLEY: For the most part, yes.

1 CHAIRMAN LEVITON: And/or creating  
2 content?

3 JOHN BUCKLEY: Correct.

4 CHAIRMAN LEVITON: Or producing  
5 content?

6 JOHN BUCKLEY: Correct, and editing.

7 CHAIRMAN LEVITON: And of those three  
8 days, how much of the day is devoted to creation of  
9 content?

10 JOHN BUCKLEY: We go in certain days  
11 specifically to shoot content. And we have people  
12 that we're doing business with that are amenable to  
13 that. So that's how we do it.

14 CHAIRMAN LEVITON: And would the  
15 filming -- how long would the filming take; is that  
16 all day?

17 JOHN BUCKLEY: It's basically -- the  
18 filming is the short time that you see on YouTube.

19 CHAIRMAN LEVITON: Oh, there's  
20 editing?

21 JOHN BUCKLEY: The editing is what  
22 takes time. But that's usually done either off-site  
23 now, but if we do have a place to set up the  
24 editing, which we're hoping for, it will be done on  
25 site at 191.

1                   CHAIRMAN LEVITON: Just who does that?

2                   JOHN BUCKLEY: The technicians that we  
3 have, that we mentioned in the application.

4                   CHAIRMAN LEVITON: And, Mr. Buckley,  
5 how -- where does the idea for the creation -- what  
6 is the impetus for the creation of content? Where  
7 does it derive from?

8                   Does it emanate from your son and his  
9 friend? Is it generated from something that they  
10 see? Is it coming from you or business that you  
11 conduct?

12                   I would like to nail that down too.

13                   JOHN BUCKLEY: Sure. Tyler's main  
14 videos are him, like, fly-on-the-wall videos, doing  
15 negotiations, buying and selling.

16                   Mine are sometimes buying and selling,  
17 but mine are more showing the ins-and-outs of what a  
18 particular model entails. What is good about it,  
19 what is bad about it. More of an examination-type  
20 video.

21                   CHAIRMAN LEVITON: Tyler has the  
22 capacity to create in the moment, you're saying?

23                   JOHN BUCKLEY: Oh, yes. Everything is  
24 in the moment.

25                   CHAIRMAN LEVITON: Oh dear, okay. So

1 there's no -- all right.

2 MEMBER WEISS: Listen, there's a video  
3 out there, you can go them going into WaWa on  
4 Route 9 in Sayreville. I mean, it could be  
5 anywhere, at any time.

6 CHAIRMAN LEVITON: Not really because  
7 tonight we have defined his content creation as  
8 exclusive to --

9 PLANNER BEAHM: Only for this site.

10 CHAIRMAN LEVITON: -- jewelry at this  
11 site. Yes.

12 PLANNER BEAHM: This site. But what  
13 Adam is saying is, it's not -- that's not the  
14 entirety of their brand.

15 CHAIRMAN LEVITON: Yes, but that --  
16 this is what they're going to be confined to, and  
17 they have agreed to it.

18 PLANNER BEAHM: Yes.

19 ZONING OFFICER BOCCANFUSO: At this  
20 location.

21 CHAIRMAN LEVITON: At this location.

22 ZONING OFFICER BOCCANFUSO: We can't  
23 restrict what they're doing...

24 CHAIRMAN LEVITON: And that's fine. We  
25 don't -- it's not our business to. And we wish them

1 success; we want them to be successful. But we want  
2 it on the record, and we want to know what it is and  
3 where it comes from.

4 Okay, I am finished, Mr. Buckley. I'm  
5 very satisfied with your answers now. Thank you,  
6 sir.

7 JOHN BUCKLEY: Thank you.

8 CHAIRMAN LEVITON: Mr. Pape, before --  
9 I'm going to allow the board to discuss its thoughts  
10 at this moment, and then I will ask you to summate,  
11 and we should conclude before our 10:30 deadline.

12 Okay, you all likely know where I  
13 stand and what I think. I will state it for you but  
14 after I hear your thoughts. I don't want to -- I  
15 don't want to influence you, and I want to ensure  
16 that you're comfortable with what you think and in  
17 what you're going to do with the weight of your  
18 vote.

19 But I did hear your concerns and I do  
20 know that some of you have them, and so I would like  
21 to discuss them here now and put them on the record  
22 why they're concerns of yours. And maybe we can  
23 ameliorate them, or maybe we can't, but I would like  
24 the applicant to know what they're up against before  
25 we -- before we go further.

1                   So let's -- let's go out to anybody who  
2 wants to contribute.

3                   VICE-CHAIRMAN GREGOWICZ: Like I said  
4 before, I have concerns.

5                   SECRETARY MOENCH: Can you put your  
6 mic up.

7                   VICE-CHAIRMAN GREGOWICZ: I have  
8 concerns.

9                   CHAIRMAN LEVITON: Your concerns, what  
10 are they?

11                   VICE-CHAIRMAN GREGOWICZ: What occurs  
12 after 6:00 p.m. especially on Fridays, Saturdays,  
13 and Sundays. I was going to say that's the most  
14 part when they do all their content creations and  
15 their filming.

16                   The address is going to be out there,  
17 where this film is going to be done. I have  
18 concerns that this Tyler might have followers, that  
19 they might try to come to this business after hours,  
20 a large crowd.

21                   I think Mr. Buckley said, from time to  
22 time you're going to have maybe special guests.  
23 That might be out, there's a special guest might be  
24 coming a week from today. That might draw a big  
25 crowd. And I'm concerned the effect it's going to

1 have on the residents around there.

2 And also the buildings or businesses  
3 that was mentioned. Now, it would be possible that  
4 most of them are closed or just open during normal  
5 business hours. They're closed on Sundays. They're  
6 not open Saturday nights and Friday nights, which  
7 would give the residents some relief with the  
8 businesses being closed, so they look like they're  
9 good businesses.

10 But I really have concerns what is  
11 going to occur with this filming and the crowd it  
12 has potential to attract. It could be -- if they  
13 have 3 million followers, it wouldn't be out of the  
14 realm to assume that you could have 4- or 500 people  
15 showing up just for autographs for a special person  
16 that is going to go there to enhance the business.

17 CHAIRMAN LEVITON: So that does, that  
18 does speak directly to the negative criteria.

19 VICE-CHAIRMAN GREGOWICZ: It has the  
20 potential. If we have large crowds -- he just said  
21 he has over 3 million followers. Now, I don't think  
22 they all live in New Jersey, but I'm sure a large  
23 amount. If the word gets out they got somebody very  
24 popular coming --

25 CHAIRMAN LEVITON: I'm acknowledging



1 your concern. The negative criteria necessitates  
2 that there's no damage to the public good and that's  
3 what you're expressing, the potential for damage to  
4 the public good.

5 So before we call for a motion, or  
6 let's go further, we will ask Mr. Buckley to address  
7 that specific concern, as it relates to the  
8 generation of the crowds in the past.

9 And anything else that you haven't  
10 expressed already?

11 VICE-CHAIRMAN GREGOWICZ: No. Just  
12 that was my concern.

13 CHAIRMAN LEVITON: Okay. So we'll  
14 recall him after we go through the rest of the  
15 board.

16 Stacey, concerns?

17 MEMBER KLOMPUS: Not right now.

18 CHAIRMAN LEVITON: John?

19 MEMBER HARRINGTON: My concerns fall  
20 in line with Mr. Gregowicz has --

21 SECRETARY MOENCH: Microphone, you  
22 need the microphone.

23 MEMBER HARRINGTON: My concerns fall in  
24 line with what Mr. Gregowicz has expressed.

25 CHAIRMAN LEVITON: The potential

1 damage to the public good?

2 MEMBER HARRINGTON: Correct.

3 CHAIRMAN LEVITON: Mr. Pochopin?

4 MEMBER POCHOPIN: Same with me, sir.

5 Like I expressed before, the policing. This is all  
6 new to me too, because it's not really zoning stuff,  
7 it's the activities. And so many different branches  
8 out on the business, as I go through the testimony  
9 the last two times. It's just always learning  
10 something new and it's very confusing.

11 And it doesn't seem -- like I said,  
12 it's very big concern to me.

13 CHAIRMAN LEVITON: The potential  
14 damage to the public good?

15 MEMBER POCHOPIN: That's correct. And  
16 also the traffic -- what Mr. Gregowicz, the safety,  
17 the large crowds of people. The highway safety,  
18 cars in and out. That's a very busy highway.

19 You know, maybe in a different area in  
20 Manalapan, but that's a highlighted area and, you  
21 know, that's my concern.

22 CHAIRMAN LEVITON: Mr. Wechsler?

23 MEMBER WECHSLER: Thank you,

24 Mr. Chairman. I believe my concerns have been made  
25 apparent, so I'm good.

1                   CHAIRMAN LEVITON:  Actually,  
2  Mr. Wechsler, I'm not really sure where you stand  
3  and I want the applicant to be clear.

4                   So are they consistent with the things  
5  that you've heard from other board members?

6                   MEMBER WECHSLER:  They're consistent  
7  with what the board has brought up.

8                   CHAIRMAN LEVITON:  Okay.  
9  Mr. Mantagas.

10                  MEMBER MANTAGAS:  My main concern is  
11  them being open seven days a week, and up to  
12  10 o'clock at night.  And that sometimes just moves  
13  fast and loose with rules.

14                  And you always say one day for rest,  
15  one day to shut down, and it's a residential area  
16  and that's my concern.

17                  CHAIRMAN LEVITON:  So, Mr. Pape, that  
18  is going to tie into what Mr. Gregowicz expressed in  
19  the way of a concern.  He talked about Friday night,  
20  Saturday night, and after-hours as a potential for  
21  damage for the public good.  And Mr. Mantagas has  
22  piggy-backed on that in a way that's relevant.

23                  So I want to unite them together in  
24  their concern for your information.

25                  Mr. Weiss?

1                   MEMBER WEISS: Yeah, I think -- look,  
2 all of my concerns did come out, I think, in real  
3 time. But, in addition to that, let's not forget  
4 that behind this building is a whole development  
5 with kids on a residential street.

6                   It's not just, you know, the first ten  
7 buildings that look like houses but are dentists'  
8 offices and other professional offices. Beyond  
9 those ten offices, it's a whole neighborhood that  
10 we're talking about, a 25-mile-an-hour street with  
11 kids.

12                   So in addition to the concerns that I  
13 have, not about Mr. Buckley, but Mr. Buckley's  
14 associates, and in addition to the traffic issue --

15                   CHAIRMAN LEVITON: Based on what you  
16 have seen on the internet?

17                   MEMBER WEISS: Based on what I have  
18 viewed personally with my own two eyes on the  
19 internet, and publicly available to anybody with an  
20 internet connection, I have real concerns.

21                   I have concerns that -- while  
22 Mr. Buckley might be there, everything is okay, I  
23 don't want it to be turn into a He-Man Woman Haters  
24 Club at the end of the day or at night, where people  
25 are just hanging out.

1                   CHAIRMAN LEVITON: That was a reference  
2 to the Little Rascals.

3                   MEMBER WEISS: Sure was. Spanky was  
4 my favorite.

5                   But anyway, those are really my  
6 concerns. I just think that it's a bad spot for  
7 this type of business, which still I haven't really  
8 gotten my arms or my head around what the business  
9 really is.

10                  Because if it's 90 percent watches, you  
11 know, it sounds to me like that's Mr. Buckley's  
12 area. I don't know that that's the area of watch  
13 repair, taking them apart and all that kind of  
14 thing. I don't know that that's the area really of  
15 the other two individuals. I think the other two  
16 individuals are really more of a  
17 social-media-influencer type of an operation.

18                  And I just have major concerns about  
19 the application.

20                  CHAIRMAN LEVITON: So when you put it  
21 like that, it's hard to not really look at it  
22 through your prism. Because I, up until you talked  
23 about, you know, the residences behind the  
24 commercial buildings and the kids, and you look at  
25 that combined with the concerns -- the potential --

1 the concerns of the board for the potential harm to  
2 the public good, you know, it gives pause to think,  
3 maybe to re-evaluate, maybe. I don't know.

4 Up until now I supported this  
5 application, I thought it's -- you know, it's a  
6 watch store; they appraise watches and they create  
7 content. And I don't have a problem with either.

8 And I like that the building is being  
9 occupied as opposed to being vacant. And I accepted  
10 Mr. Dean's testimony that it is difficult to get  
11 that building to house other businesses that would  
12 be permitted uses. Notwithstanding our own  
13 planner's input that the building could be  
14 demolished and built from the ground up again.

15 But I did hear your concerns. And I  
16 know the applicant heard them, and so I'm going to  
17 defer to Mr. Pape.

18 ATTORNEY PAPE: Mr. Chair, if I could  
19 just have two minutes to confer with my client?  
20 Two.

21 CHAIRMAN LEVITON: I'm going to extend  
22 our hard deadline so that you can confer with him  
23 for five minutes.

24 ATTORNEY PAPE: I only need two.  
25 Thank you.

1 CHAIRMAN LEVITON: Okay.

2 (A recess is taken at 10:30 p.m.)

3

- - -

4 CHAIRMAN LEVITON: Forgive me. I'm  
5 good now. I call the meeting back to order.

6 Mr. Pape?

7 ATTORNEY PAPE: Mr. Chairman, board  
8 members, we listened carefully to your concerns. I  
9 knew there were concerns; wasn't certain what they  
10 were.

11 Mr. Buckley and Mr. Sitar have  
12 authorized me, as both the landlord and as the  
13 tenant, to make the following modifications to what  
14 has been presented and one clarification. If these  
15 are of value to you, I would appreciate if you could  
16 share that with me.

17 But the hours of operation, we would  
18 ask Monday, Tuesday, Wednesday, Thursday -- Monday  
19 through Thursday, 8 o'clock, the doors are -- it's  
20 finished. There's no more activity.

21 What was 10:00 becomes 8:00; it's  
22 8 o'clock. It's still 6 o'clock that we lock the  
23 doors to the customers. 6 o'clock we lock the doors  
24 to the customers. 8 o'clock we're out of there.

25 Friday, Saturday, Sunday, 6 o'clock is

1 6 o'clock. There's nothing that happens after 6  
2 clock. There is no activity in the building at all  
3 after 6 o'clock.

4 And for the board's knowledge,  
5 historically there has never been even one person  
6 who was an audience for any podcast.

7 There is no audience allowed in the  
8 building. The building is locked while the  
9 recording is taking place. And historically, there  
10 has never been any audience.

11 And controls can be put in that no  
12 audience is permitted in the building. And we can  
13 have a security system that prevents anyone from  
14 accumulating in the parking lot if that becomes an  
15 issue. We don't expect it to be.

16 CHAIRMAN LEVITON: Those modifications  
17 may well be effective. So I will go to the board  
18 and will ask them.

19 But let me ask you about Monday,  
20 Tuesday and Wednesday when you are going to have  
21 your business hours continue until 8:00 p.m.  
22 Between 6 and 8, will that exclusive timeframe be  
23 devoted to content creation only; no customers, no  
24 business transactions, just inside the building with  
25 your employees?



1                   ATTORNEY PAPE: Internet wholesale  
2 activity could be taking place during that time. As  
3 Mr. Buckley had testified, that's one of his  
4 activities after hours.

5                   He had said up to 10. Now it will stop  
6 at 8, but it would also include the video.

7                   CHAIRMAN LEVITON: All right. Let us  
8 discuss it amongst ourselves, then.

9                   Bob, you started and there are  
10 modifications made.

11                  VICE-CHAIRMAN GREGOWICZ: I'm still  
12 concerned about what occurs after close and is there  
13 any checks or balances that it's going to ensure  
14 it's going to close at 8 o'clock?

15                  CHAIRMAN LEVITON: If we take him at  
16 his word, though, he does say after 6 nothing goes  
17 on on the outside, and after 8, the building is  
18 empty on Monday, Tuesday and Wednesday, and that  
19 there is no past 6 o'clock on any other day of the  
20 week.

21                  That is a hefty concession. I know you  
22 did have concerns, but...

23                  ATTORNEY PAPE: I had one other  
24 comment, if I might. Mr. Buckley is the tenant.  
25 He's not my client. He's a nice man; he's not my

1 client. Mr. Buckley is not my client, he's a  
2 tenant.

3 The landlord is the Sitar family. The  
4 Sitars are very substantial -- very substantial  
5 Monmouth County commercial developers. They didn't  
6 buy this to flip it. This is part of their  
7 portfolio.

8 Mr. Sitar is here. He's listened to  
9 everything. He has given me the authority to say  
10 this. He knows that it is him and his family that  
11 is on the line making these statements. This is not  
12 someone who has one building. This is a very  
13 substantial real estate developer.

14 So you've got the Sitars saying, I am  
15 going to make sure that these are enforced. And  
16 they want the record to reflect that. And if the  
17 record -- and I'm stating that on the record, the  
18 Sitars stated that they recognize they're  
19 responsible for the performance, so be it.

20 CHAIRMAN LEVITON: The board  
21 recognizes their acceptance of responsibility and  
22 their inclusion of it on the record.

23 ATTORNEY PAPE: Thank you.

24 Adam, you had concerns. Do the  
25 modifications...

1                   MEMBER WEISS: While I appreciate  
2 them, they don't change my position.

3                   CHAIRMAN LEVITON: Basal, how about  
4 you? You talked about -- you talked about after  
5 hours.

6                   MEMBER MANTAGAS: Well, I feel more  
7 comfortable with those hours. I think they're  
8 better than the 10 o'clock hour, and it's a  
9 compromise.

10                  CHAIRMAN LEVITON: Thank you, Basal.  
11 Michael?

12                  MEMBER WECHSLER: No, it doesn't  
13 change my position.

14                  CHAIRMAN LEVITON: Oh dear.

15                  So I will remind the board that this is  
16 a Use Variance, it's going to necessitate five  
17 affirmative votes. There are two, possibly three  
18 negative votes already.

19                  Daniel.

20                  MEMBER POCHOPIN: Same for me, it's  
21 still detrimental to the community.

22                  CHAIRMAN LEVITON: And John?

23                  MEMBER HARRINGTON: I'm going to have  
24 to, you know, stick with my original gut feeling.

25                  CHAIRMAN LEVITON: It's rooted in law,

1 when they can't meet the proofs for the negative  
2 criteria and there's questionability, it is  
3 appropriate for this board to err on the side of  
4 caution.

5                   And I will acknowledge your  
6 volunteerism, each and every one of you, and thank  
7 you for affirming your votes and for stating your  
8 opinions. The township appreciates your  
9 contribution.

10                   Stacey?

11                   MEMBER KLOMPUS: My concern is how  
12 much -- even though he states 8 o'clock, he's  
13 expressed a lot that he deals with overseas and the  
14 time needed to be later. So what if you're in the  
15 middle of something and it becomes 8 o'clock, are  
16 you going to just go home and deal with that?  
17 You're going to stay and finish, that's what  
18 everybody does.

19                   So as much as I appreciate the time  
20 change, you told us the nature of your business,  
21 there's a lot of overseas. I'm not sure how much of  
22 that might happen.

23                   CHAIRMAN LEVITON: I still support  
24 this application. I appreciate the concessions and  
25 the hard work that you put into it.

1                   ATTORNEY PAPE: I would ask one  
2 further, Mr. Chair. Clearly this is not an  
3 application that has the support of the board this  
4 evening. I would like to the opportunity to confer  
5 with my client and with his tenant to see if there  
6 are further concessions that can be created.

7                   We can't do it at a quarter to 11,  
8 after we've been working this many hours. As much  
9 as I was hoping that we could conclude this evening,  
10 I wouldn't want to leave -- I wouldn't want to leave  
11 it, if there's something further that we could do.

12                   May I ask that you carry -- that you  
13 not vote this evening and carry it to a future  
14 hearing date. When we return -- hopefully when we  
15 return, we can fashion something that addresses your  
16 concerns.

17                   CHAIRMAN LEVITON: You absolutely may,  
18 and we're happy to do that.

19                   Janice, we're going to give them a  
20 date. Offer him a date, please.

21                   Mr. Pape, you understand when you  
22 return you're going to come with --

23                   ATTORNEY PAPE: Concessions.

24                   CHAIRMAN LEVITON: We're not going to  
25 ask you to re-notice, but you're going to come with

1 a firm...

2 SECRETARY MOENCH: If we can't carry  
3 it to a date certain --

4 CHAIRMAN LEVITON: It has to be  
5 carried to a certain date.

6 ATTORNEY PAPE: Yeah, to a date  
7 certain.

8 SECRETARY MOENCH: So 7/18 you're not  
9 here. I guess August 1st I have.

10 CHAIRMAN LEVITON: I want to do  
11 everything possible to facilitate the approval of  
12 this application because it's consistent with what I  
13 think should happen, but I have to tell you, it  
14 looks like you're up against a hard wall.

15 You understand that?

16 ATTORNEY PAPE: I understand that.

17 CHAIRMAN LEVITON: And when you come  
18 back, there needs to be radical changes that is  
19 going to influence what you have seen in the way of  
20 opposition.

21 ATTORNEY PAPE: And I don't know that  
22 I have those radical changes to offer, but I would  
23 be remiss if I did not explore them to the nth  
24 degree before asking you to...

25 CHAIRMAN LEVITON: And I would be

1 remiss if I didn't acknowledge that and insist on a  
2 vote this evening, despite the opposition I'm up  
3 against. I know it's unpopular.

4 ATTORNEY PAPE: When we return,  
5 Mr. Chair and board members, I anticipate that we're  
6 not going to be long in our presentation. I don't  
7 think that we will be dominating the evening as we  
8 did this evening.

9 CHAIRMAN LEVITON: We accept that and  
10 we appreciate it.

11 Janice, what else do we have for them,  
12 a date?

13 SECRETARY MOENCH: August 1st.

14 CHAIRMAN LEVITON: What else do we  
15 have?

16 ATTORNEY PAPE: What else is on that  
17 night?

18 SECRETARY MOENCH: Nothing right now.

19 CHAIRMAN LEVITON: August 1st it is,  
20 then.

21 ATTORNEY PAPE: Mr. Chair, members of  
22 the board, board professionals, I thank you. If it  
23 could be announced that we're carried to August 1st  
24 without further notice of publication.

25 I'll follow it with a letter of

1 extension of time for the board to act.

2 CHAIRMAN LEVITON: Mr. Marmero, any  
3 objection?

4 ATTORNEY MARMERO: No objection from  
5 me. August 1st. As long as it's a date certain  
6 anyone that's here for the application, and there's  
7 no one here, is aware of it.

8 CHAIRMAN LEVITON: Outstanding. Thank  
9 you, the applicant, Mr. Pape, and the court  
10 reporter, the board's professionals. And I'm going  
11 to go out to public at this time and see if there's  
12 anyone else that wants to address the board with  
13 non-agenda items?

14 Seeing none, I will close the public  
15 and before we adjourn for the evening.

16

17 (Whereupon, the application was  
18 adjourned to August 1, 2024.)

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20 (Time noted, 10:45 p.m.)

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C E R T I F I C A T E

I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witnesses were duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceeding as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

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

-----  
Angela C. Buonantuono, CCR, RPR, CLR  
NJ License No. 30XI00233100  
Notary Public

<b>\$</b>			
<b>\$100,000</b> [1] - 28:21			
<b>,</b>			
<b>'22</b> [1] - 63:2			
<b>0</b>			
<b>07726</b> [1] - 1:12			
<b>08535</b> [2] - 1:24, 3:4			
<b>1</b>			
<b>1</b> [3] - 1:6, 11:10, 130:18	<b>20</b> [3] - 56:14, 78:4, 98:11		
<b>10</b> [24] - 21:19, 21:22, 21:25, 22:13, 42:24, 43:13, 43:22, 44:2, 44:6, 45:2, 45:11, 47:9, 61:9, 65:2, 65:20, 66:4, 66:6, 66:7, 66:12, 79:10, 108:14, 117:12, 123:5, 125:8	<b>2020</b> [1] - 63:2		
<b>10,000</b> [1] - 85:20	<b>2023</b> [1] - 14:22		
<b>100</b> [3] - 15:23, 51:18, 87:13	<b>2024</b> [3] - 1:14, 64:12, 130:18		
<b>10:00</b> [8] - 42:13, 43:3, 44:8, 47:11, 65:16, 65:22, 121:21	<b>20th</b> [1] - 77:21		
<b>10:10</b> [1] - 97:23	<b>23</b> [1] - 5:6		
<b>10:30</b> [11] - 21:25, 22:5, 22:7, 22:10, 22:14, 65:21, 66:9, 66:12, 97:24, 112:11, 121:2	<b>24</b> [2] - 23:6, 77:2		
<b>10:45</b> [1] - 130:20	<b>24-hour</b> [1] - 23:5		
<b>11</b> [4] - 5:5, 22:4, 85:20, 127:7	<b>24/7</b> [1] - 22:17		
<b>12,000</b> [1] - 85:20	<b>2401</b> [1] - 6:4		
<b>120</b> [1] - 1:11	<b>25</b> [1] - 4:5		
<b>16</b> [1] - 99:7	<b>25-mile-an-hour</b> [1] - 118:10		
<b>173</b> [2] - 54:25, 56:4	<b>26</b> [1] - 1:23		
<b>18</b> [1] - 73:8	<b>27</b> [3] - 62:24, 75:7		
<b>18-and-3-quarters</b> [1] - 82:2	<b>3</b>		
<b>18-and-3-quarters-feet</b> [1] - 80:20	<b>3</b> [4] - 18:4, 64:4, 114:13, 114:21		
<b>180</b> [1] - 85:20	<b>30</b> [5] - 22:2, 22:11, 105:2, 105:8, 105:14		
<b>1802</b> [1] - 1:6	<b>30-inch-high</b> [1] - 95:13		
<b>189</b> [1] - 99:4	<b>30XI00233100</b> [2] - 2:24, 131:23		
<b>191</b> [4] - 1:6, 6:4, 58:22, 109:25	<b>31</b> [1] - 75:8		
<b>1987</b> [1] - 7:13	<b>33</b> [1] - 3:3		
<b>1999</b> [1] - 77:25	<b>4</b>		
<b>1st</b> [5] - 128:9, 129:13, 129:19, 129:23, 130:5	<b>4</b> [3] - 82:14, 105:2, 114:14		
	<b>4-foot</b> [1] - 95:15		
<b>2</b>	<b>4.17</b> [1] - 82:12		
<b>2,900</b> [3] - 85:6, 85:13, 85:21	<b>40</b> [2] - 80:21, 85:18		
	<b>40-some-odd</b> [1] - 70:2		
	<b>40:55D-2</b> [1] - 89:15		
	<b>45D-2</b> [1] - 86:22		
	<b>5</b>		
	<b>500</b> [1] - 114:14		
	<b>516</b> [1] - 3:3		
	<b>522</b> [1] - 1:11		
	<b>6</b>		
	<b>6</b> [20] - 1:14, 17:10, 43:20, 44:6, 45:2, 45:11, 47:9, 47:11, 50:9, 61:10, 77:2, 121:22, 121:23, 121:25, 122:1, 122:3, 122:22, 123:16, 123:19		
	<b>6-and-a-half</b> [2] - 95:17, 105:1		
	<b>60.8</b> [1] - 100:10		
	<b>69</b> [1] - 4:6		
	<b>6:00</b> [4] - 43:3, 43:7, 44:5, 113:12		
	<b>7</b>		
	<b>7/18</b> [1] - 128:8		
	<b>71</b> [1] - 5:7		
	<b>73</b> [1] - 5:8		
	<b>732)-679-6554</b> [1] - 3:5		
	<b>732)-679-8844</b> [1] - 3:4		
	<b>732)882-3590</b> [1] - 1:24		
	<b>75</b> [2] - 59:11, 59:12		
	<b>76</b> [1] - 5:9		
	<b>7:30</b> [1] - 1:15		
	<b>8</b>		
	<b>8</b> [9] - 121:19, 121:22, 121:24, 122:22, 123:6, 123:14, 123:17, 126:12, 126:15		
	<b>80</b> [1] - 78:7		
	<b>81</b> [1] - 5:10		
	<b>82</b> [1] - 5:11		
	<b>8:00</b> [2] - 121:21, 122:21		
	<b>8:25</b> [1] - 6:1		
	<b>9</b>		
	<b>9</b> [19] - 1:6, 6:4, 12:2, 72:7, 72:10, 72:11, 72:21, 74:14, 74:15, 77:2, 81:1, 81:3, 96:20, 99:4, 99:7, 100:7, 100:9, 102:9, 111:4		
	<b>90</b> [3] - 64:24, 79:10, 119:10		
	<b>9:26</b> [1] - 68:18		
	<b>9:37</b> [1] - 68:20		
	<b>A</b>		
	<b>A&amp;E</b> [1] - 99:4		
	<b>A-1</b> [5] - 5:5, 11:9, 11:13, 71:12, 75:21		
	<b>A-2</b> [6] - 5:6, 23:21, 23:24, 71:10, 71:13, 75:22		
	<b>A-3</b> [8] - 5:7, 71:11, 71:14, 71:25, 72:2, 72:5, 75:23, 76:7		
	<b>A-4</b> [4] - 5:8, 73:10, 73:14, 75:24		
	<b>A-5</b> [9] - 5:9, 75:18, 75:19, 76:5, 76:6, 76:16, 76:25, 98:14, 98:15		
	<b>A-6</b> [6] - 5:10, 75:17, 81:14, 81:15, 81:16, 81:18		
	<b>A-7</b> [4] - 5:11, 81:13, 81:25, 82:5		
	<b>a.m</b> [2] - 42:13, 43:3		
	<b>AB</b> [1] - 1:22		
	<b>abbreviated</b> [1] - 70:19		
	<b>ability</b> [2] - 55:18, 85:1		
	<b>able</b> [4] - 19:24, 22:18, 33:14, 85:3		
	<b>aboveboard</b> [1] - 29:5		
	<b>absolutely</b> [15] - 10:22, 23:17, 27:9, 29:7, 29:9, 29:23, 31:11, 39:18, 41:10, 51:15, 51:19, 56:19, 63:17, 71:1, 127:17		
	<b>abuts</b> [1] - 40:13		
	<b>accept</b> [5] - 14:7, 61:22, 65:4, 92:24, 129:9		
	<b>acceptable</b> [3] - 16:1, 71:2, 96:24		
	<b>acceptance</b> [1] - 124:21		
	<b>accepted</b> [2] - 13:3, 120:9		
	<b>accepts</b> [2] - 64:9, 69:19		
	<b>access</b> [3] - 75:3, 81:5, 90:11		
	<b>accesses</b> [1] - 80:11		
	<b>accessibility</b> [1] - 103:25		
	<b>according</b> [1] - 100:8		
	<b>account</b> [1] - 38:13		
	<b>Accountants</b> [1] - 99:15		
	<b>accounts</b> [2] - 35:13, 65:1		
	<b>accumulating</b> [1] - 122:14		
	<b>accurate</b> [3] - 18:13, 61:18, 131:10		
	<b>accurately</b> [1] - 25:14		
	<b>acknowledge</b> [3] - 101:6, 126:5, 129:1		
	<b>acknowledging</b> [1] - 114:25		
	<b>Acne</b> [1] - 99:5		
	<b>ACSW</b> [1] - 99:20		
	<b>Act</b> [1] - 107:2		
	<b>act</b> [1] - 130:1		
	<b>action</b> [3] - 89:4, 131:15, 131:18		
	<b>activities</b> [8] - 9:18, 16:16, 21:21, 35:21, 49:25, 76:14, 116:7, 123:4		
	<b>activity</b> [12] - 15:19, 15:25, 21:19, 21:20, 28:9, 59:6, 66:5, 78:19, 79:10, 121:20, 122:2, 123:2		
	<b>actual</b> [5] - 47:6, 59:10, 64:19, 73:7,		
	83:9		
	<b>ADA</b> [6] - 100:15, 100:23, 106:23, 107:2, 107:3		
	<b>Adam</b> [4] - 17:22, 54:18, 111:13, 124:24		
	<b>ADAM</b> [1] - 2:9		
	<b>Adam's</b> [1] - 94:12		
	<b>add</b> [3] - 15:21, 94:17, 102:9		
	<b>added</b> [1] - 97:17		
	<b>adding</b> [1] - 96:19		
	<b>addition</b> [7] - 15:8, 23:2, 77:19, 105:16, 118:3, 118:12, 118:14		
	<b>additional</b> [2] - 50:23, 103:25		
	<b>ADDRESS</b> [1] - 4:17		
	<b>address</b> [10] - 27:2, 27:17, 32:21, 32:23, 33:1, 40:19, 70:24, 113:16, 115:6, 130:12		
	<b>addressed</b> [1] - 41:19		
	<b>addresses</b> [2] - 32:24, 127:15		
	<b>adhere</b> [2] - 66:21, 67:14		
	<b>adhered</b> [1] - 40:20		
	<b>adjourn</b> [1] - 130:15		
	<b>adjourned</b> [1] - 130:18		
	<b>Adjustment</b> [1] - 84:7		
	<b>administrative</b> [3] - 9:21, 25:20, 63:11		
	<b>Administrative</b> [1] - 2:19		
	<b>advanced</b> [2] - 92:5, 92:14		
	<b>Advanced</b> [1] - 99:22		
	<b>advancement</b> [2] - 87:11, 88:20		
	<b>advances</b> [2] - 78:20, 106:13		
	<b>advancing</b> [5] - 86:2, 86:6, 86:10, 86:17, 89:12		
	<b>adverse</b> [1] - 19:18		
	<b>advice</b> [1] - 93:14		
	<b>advocate</b> [1] - 83:11		
	<b>Aerial</b> [4] - 5:7, 5:9, 72:2, 76:16		
	<b>aerial</b> [3] - 71:9, 71:17, 76:6		
	<b>aesthetic</b> [4] - 91:6, 91:13, 93:18, 94:15		
	<b>aesthetically</b> [1] - 74:22		
	<b>aesthetics</b> [4] - 90:17, 91:8, 93:5, 106:5		
	<b>affirm</b> [3] - 27:7,		

45:21, 64:15  
**affirming** [1] - 126:7  
**after-hours** [1] - 117:20  
**agencies** [2] - 107:15, 107:16  
**agenda** [1] - 130:13  
**ago** [4] - 7:5, 31:16, 31:17, 70:17  
**agree** [13] - 35:9, 38:3, 39:14, 51:19, 55:20, 57:3, 57:6, 57:8, 88:6, 88:23, 103:5, 105:7, 106:10  
**agreed** [3] - 8:18, 96:4, 111:17  
**agrees** [1] - 107:1  
**agriculture** [1] - 92:19  
**ahead** [2] - 11:8, 80:14  
**AICP** [1] - 2:16  
**akin** [1] - 80:8  
**AI** [1] - 51:8  
**ALBERT** [1] - 2:13  
**Albert** [3] - 30:18, 30:20, 56:1  
**Algonquin** [1] - 1:23  
**allow** [7] - 6:12, 11:4, 19:2, 79:25, 83:17, 106:5, 112:9  
**allowed** [3] - 43:18, 107:4, 122:7  
**allowing** [2] - 62:14, 62:15  
**allows** [1] - 13:24  
**almost** [1] - 97:23  
**amaze** [1] - 58:2  
**ameliorate** [1] - 112:23  
**amenable** [1] - 109:12  
**amending** [1] - 8:19  
**amenity** [1] - 97:17  
**American** [1] - 23:9  
**Ameriprise** [1] - 99:21  
**amount** [1] - 114:23  
**analogous** [1] - 78:13  
**ancillary** [1] - 89:1  
**AND** [1] - 2:12  
**angela** [1] - 131:23  
**ANGELA** [2] - 2:24, 131:3  
**angelabuonocsr@gmail.com** [1] - 1:25  
**announced** [1] - 129:23  
**answer** [7] - 19:2, 37:3, 37:4, 39:12, 50:7, 50:14, 66:2  
**answered** [1] - 64:7  
**answering** [1] - 88:18

**answers** [3] - 17:21, 53:8, 112:5  
**anticipate** [2] - 58:9, 129:5  
**anticipation** [1] - 33:19  
**antique** [1] - 80:7  
**Antiques** [1] - 17:5  
**anyway** [2] - 33:15, 119:5  
**apart** [1] - 119:13  
**apologize** [1] - 13:5  
**apparent** [1] - 116:25  
**appeal** [1] - 74:22  
**appearances** [1] - 70:11  
**appeared** [1] - 70:11  
**applicant** [17] - 6:5, 9:16, 55:17, 55:20, 62:13, 74:17, 77:11, 78:25, 79:22, 89:2, 97:14, 100:3, 107:1, 112:24, 117:3, 120:16, 130:9  
**Applicant** [2] - 3:6, 11:10  
**applicant's** [2] - 10:10, 68:24  
**APPLICATION** [1] - 1:8  
**Application** [1] - 6:4  
**application** [20] - 11:20, 34:16, 36:21, 40:20, 57:7, 73:1, 73:4, 74:7, 77:23, 83:24, 98:9, 104:21, 110:3, 119:19, 120:5, 126:24, 127:3, 128:12, 130:6, 130:17  
**applications** [1] - 84:8  
**applies** [1] - 30:16  
**apply** [3] - 55:8, 55:19, 56:7  
**appraisal** [4] - 9:24, 26:1, 61:24, 90:7  
**appraisals** [1] - 64:20  
**appraise** [1] - 120:6  
**appraising** [2] - 79:5, 79:12  
**appreciate** [12] - 11:16, 11:19, 13:8, 15:18, 29:17, 63:22, 102:18, 121:15, 125:1, 126:19, 126:24, 129:10  
**appreciated** [2] - 13:12, 20:22  
**appreciates** [1] - 126:8  
**approach** [1] - 74:12

**appropriate** [8] - 88:12, 88:14, 89:16, 90:4, 90:8, 92:13, 126:3  
**approval** [4] - 24:7, 97:16, 104:21, 128:11  
**approvals** [2] - 73:9, 107:16  
**approve** [1] - 46:24  
**approved** [2] - 21:22, 22:16  
**approves** [1] - 21:20  
**arborist** [1] - 96:25  
**Architects** [1] - 99:11  
**area** [19] - 17:10, 29:13, 50:8, 50:9, 73:22, 83:1, 84:12, 98:16, 104:22, 104:24, 105:5, 105:6, 106:4, 116:19, 116:20, 117:15, 119:12, 119:14  
**Area** [1] - 61:10  
**areas** [1] - 84:3  
**argument** [2] - 92:8, 94:12  
**arms** [1] - 119:8  
**arrangement** [3] - 86:25, 87:20, 88:9  
**as-of-right** [1] - 36:21  
**aside** [2] - 59:2, 70:9  
**Assistant** [1] - 2:19  
**associated** [4] - 38:7, 40:10, 78:10, 79:11  
**Associates** [2] - 2:15, 99:12  
**associates** [1] - 118:14  
**associations** [1] - 54:16  
**assume** [1] - 114:14  
**assurance** [1] - 66:1  
**attendance** [1] - 104:6  
**attorney** [3] - 7:14, 131:14, 131:16  
**ATTORNEY** [131] - 6:7, 6:8, 6:18, 7:1, 7:10, 7:25, 8:5, 9:5, 9:7, 9:9, 11:7, 11:11, 11:16, 12:18, 12:22, 13:11, 13:15, 14:18, 14:22, 15:17, 15:25, 16:13, 19:12, 20:12, 21:3, 21:12, 22:5, 22:8, 22:11, 22:13, 23:22, 24:2, 24:22, 25:3, 25:9, 25:24, 26:5, 26:11, 26:19, 26:24, 30:13, 37:13,

37:25, 41:22, 44:3, 45:19, 46:1, 46:9, 47:8, 47:13, 50:15, 51:2, 51:9, 54:20, 54:23, 55:11, 55:17, 56:2, 56:4, 56:20, 56:23, 57:10, 57:12, 57:18, 57:21, 58:5, 60:3, 60:10, 60:21, 62:20, 62:25, 63:3, 63:6, 63:14, 64:6, 64:12, 64:17, 65:25, 66:13, 68:13, 68:16, 69:5, 69:10, 69:14, 69:17, 70:15, 71:2, 71:4, 71:11, 71:22, 73:10, 73:12, 76:2, 76:5, 81:11, 81:14, 83:9, 91:12, 95:4, 96:4, 96:11, 96:23, 98:21, 98:25, 99:4, 105:1, 105:6, 105:13, 105:19, 107:3, 107:7, 107:12, 107:17, 107:22, 108:1, 108:7, 120:18, 120:24, 121:7, 123:1, 123:23, 124:23, 127:1, 127:23, 128:6, 128:16, 128:21, 129:4, 129:16, 129:21, 130:4  
**Attorney** [1] - 2:13  
**attract** [2] - 27:15, 114:12  
**auction** [1] - 29:15  
**auctions** [1] - 29:15  
**audience** [4] - 122:6, 122:7, 122:10, 122:12  
**audio** [1] - 17:1  
**August** [6] - 128:9, 129:13, 129:19, 129:23, 130:5, 130:18  
**authentic** [1] - 29:14  
**authentication** [2] - 9:24, 26:1  
**authenticity** [2] - 28:25, 29:14  
**authority** [2] - 23:10, 124:9  
**authorized** [1] - 121:12  
**autographs** [1] - 114:15  
**available** [4] - 10:15, 27:3, 67:5, 118:19  
**Avakian** [1] - 2:17  
**averse** [1] - 46:17  
**aware** [2] - 80:18,

130:7  
**awesome** [1] - 53:4

---

## B

**backed** [1] - 117:22  
**backtrack** [1] - 17:23  
**bad** [3] - 20:7, 110:19, 119:6  
**balance** [1] - 78:22  
**balanced** [1] - 84:11  
**balances** [1] - 123:13  
**bank** [10] - 9:17, 22:17, 72:24, 73:9, 74:11, 77:16, 77:24, 78:2, 84:17, 90:11  
**banking** [1] - 78:6  
**banks** [3] - 77:25, 84:20, 84:22  
**Barnabas** [1] - 99:19  
**Barrier** [1] - 100:24  
**Barrier-Free** [1] - 100:24  
**basal** [1] - 125:3  
**Basal** [1] - 125:10  
**base** [10] - 64:24, 95:13, 95:15, 95:19, 95:23, 105:2, 105:10, 105:12, 105:15, 106:4  
**based** [6] - 20:1, 49:22, 73:6, 108:15, 118:15, 118:17  
**BASIL** [1] - 2:6  
**basis** [1] - 17:2  
**Bath** [1] - 99:5  
**Beahm** [11] - 15:17, 28:16, 28:20, 36:12, 36:14, 81:21, 83:23, 87:10, 90:23, 102:18, 106:17  
**BEAHM** [83] - 2:16, 12:17, 14:8, 14:12, 14:19, 15:8, 15:23, 16:2, 16:22, 16:24, 18:6, 18:10, 18:14, 19:20, 20:4, 22:4, 22:6, 22:10, 22:12, 27:24, 28:4, 36:11, 36:16, 37:8, 37:15, 38:5, 46:10, 46:18, 46:22, 47:2, 51:1, 51:4, 51:10, 55:15, 57:17, 59:22, 59:25, 60:8, 60:12, 60:18, 62:4, 63:18, 63:22, 68:2, 68:6, 81:6, 82:15, 82:23, 83:5, 83:11, 85:22, 85:25, 86:5, 86:13, 87:12, 88:2, 88:6,

- 88:8, 88:16, 88:21, 91:2, 91:14, 91:18, 92:20, 93:1, 93:4, 93:13, 93:23, 94:1, 94:7, 94:9, 95:1, 95:22, 96:6, 100:18, 105:23, 106:7, 106:8, 106:15, 106:18, 111:9, 111:12, 111:18
- Beahm's** [1] - 100:5
- beat** [1] - 91:15
- became** [4] - 7:16, 8:17, 11:1, 14:25
- become** [1] - 8:23
- becomes** [6] - 23:12, 63:20, 72:18, 121:21, 122:14, 126:15
- began** [1] - 8:9
- beginning** [1] - 81:7
- behalf** [2] - 6:5, 20:14
- behavior** [1] - 13:6
- behind** [4] - 16:12, 67:2, 118:4, 119:23
- below** [1] - 85:21
- benefits** [1] - 77:22
- best** [2] - 28:2, 31:15
- better** [4] - 27:16, 93:11, 96:3, 125:8
- Between** [1] - 122:22
- between** [9] - 21:25, 43:3, 45:2, 45:11, 47:9, 47:10, 72:15, 78:22, 102:21
- beyond** [5] - 34:23, 51:10, 61:9, 90:21, 118:8
- big** [6] - 16:23, 67:19, 82:2, 93:25, 113:24, 116:12
- bill** [1] - 24:11
- binding** [1] - 38:1
- bit** [3] - 10:18, 49:19, 77:25
- blacktop** [1] - 73:22
- blade** [1] - 93:20
- bleed** [1] - 70:8
- blight** [1] - 86:23
- BLOCK** [1] - 1:6
- blue** [1] - 82:1
- blunt** [1] - 40:2
- Board** [4] - 2:13, 2:15, 2:16, 84:7
- board** [75] - 6:23, 7:19, 7:24, 8:6, 8:13, 8:18, 9:13, 9:15, 10:12, 10:13, 10:23, 11:17, 11:19, 13:24, 18:9, 18:19, 20:23, 21:20, 25:12, 25:16, 25:22, 26:3, 26:9, 26:20, 26:25, 29:10, 36:23, 38:6, 38:16, 40:18, 41:5, 42:3, 42:6, 57:7, 64:9, 65:5, 67:14, 68:11, 68:14, 69:19, 70:12, 70:20, 72:6, 74:6, 79:22, 80:3, 80:18, 81:23, 89:4, 95:12, 96:24, 97:23, 98:2, 102:16, 102:22, 103:8, 104:10, 106:13, 112:9, 115:15, 117:5, 117:7, 120:1, 121:7, 122:17, 124:20, 125:15, 126:3, 127:3, 129:5, 129:22, 130:1, 130:12
- BOARD** [7] - 1:1, 2:1, 2:12, 12:21, 23:20, 47:5, 49:20
- board's** [4] - 8:8, 8:13, 122:4, 130:10
- Bob** [3] - 7:20, 42:10, 123:9
- Boccanfuso** [1] - 104:16
- BOCCANFUSO** [10] - 2:18, 104:13, 104:17, 105:4, 105:8, 105:17, 105:24, 106:9, 111:19, 111:22
- books** [1] - 56:17
- borders** [1] - 76:13
- bored** [2] - 58:5, 58:6
- born** [1] - 70:4
- bottom** [1] - 81:2
- boundaries** [1] - 72:12
- boundary** [2] - 100:8, 100:11
- boutique** [1] - 79:24
- boys** [2] - 41:14, 58:22
- branches** [2] - 67:20, 116:7
- brand** [1] - 111:14
- break** [1] - 68:7
- BRIAN** [1] - 2:18
- Brian** [1] - 7:23
- Briar** [3] - 72:8, 80:12, 81:2
- brick** [1] - 12:19
- briefly** [1] - 100:3
- bring** [4] - 21:13, 24:18, 41:25, 107:1
- bringing** [3] - 30:21, 35:22, 45:24
- broad** [1] - 55:13
- broadcast** [1] - 14:23
- broadcasting** [3] - 10:5, 26:12, 50:19
- broadcasts** [3] - 10:8, 26:15, 27:25
- brother** [1] - 13:17
- brought** [5] - 19:15, 67:16, 67:18, 87:15, 117:7
- brown** [2] - 73:20
- Buckley** [50] - 8:9, 8:24, 9:9, 10:13, 14:23, 18:3, 19:8, 19:10, 20:5, 21:4, 22:25, 23:10, 24:16, 24:18, 24:19, 24:21, 25:5, 25:9, 27:2, 27:4, 27:12, 42:2, 44:11, 47:19, 47:22, 48:11, 51:12, 53:7, 55:22, 57:2, 60:17, 61:4, 66:3, 66:23, 74:18, 79:4, 102:19, 108:6, 108:7, 108:12, 110:4, 112:4, 113:21, 115:6, 118:13, 118:22, 121:11, 123:3, 123:24, 124:1
- BUCKLEY** [15] - 4:5, 25:2, 25:5, 108:16, 108:21, 108:25, 109:3, 109:6, 109:10, 109:17, 109:21, 110:2, 110:13, 110:23, 112:7
- Buckley's** [2] - 118:13, 119:11
- buffer** [1] - 100:6
- building** [54] - 9:17, 10:17, 12:11, 12:20, 15:7, 16:17, 17:13, 21:24, 22:3, 36:24, 37:16, 47:14, 49:22, 50:9, 50:13, 58:9, 58:17, 67:2, 73:19, 73:23, 74:19, 75:4, 78:14, 84:1, 84:16, 85:4, 85:7, 85:14, 85:16, 86:25, 89:22, 90:1, 90:14, 90:18, 91:4, 91:6, 91:7, 91:21, 93:8, 94:12, 95:2, 99:9, 118:4, 120:8, 120:11, 120:13, 122:2, 122:8, 122:12, 122:24, 123:17, 124:12
- buildings** [3] - 114:2, 118:7, 119:24
- built** [2] - 85:19, 120:14
- bulk** [1] - 100:4
- bunch** [1] - 56:12
- Buonantuono** [1] - 131:23
- BUONANTUONO** [2] - 2:24, 131:3
- burden** [1] - 86:9
- burglary** [1] - 23:9
- business** [85] - 8:9, 8:11, 8:15, 8:16, 9:10, 9:18, 10:10, 16:15, 22:13, 22:14, 26:16, 27:15, 27:20, 32:6, 32:9, 32:11, 32:13, 32:16, 32:23, 33:3, 35:8, 38:19, 41:4, 41:7, 41:14, 42:15, 43:4, 43:11, 43:20, 43:21, 44:15, 44:16, 45:10, 45:13, 46:13, 48:16, 51:6, 52:16, 52:19, 52:25, 53:10, 54:5, 54:7, 54:11, 54:12, 54:14, 55:2, 55:9, 56:11, 57:4, 61:8, 61:12, 61:15, 61:24, 62:21, 62:23, 63:1, 63:6, 63:16, 63:20, 64:14, 64:21, 64:25, 66:4, 66:5, 74:19, 77:16, 78:12, 79:12, 93:10, 95:25, 108:13, 109:12, 110:10, 111:25, 113:19, 114:5, 114:16, 116:8, 119:7, 119:8, 122:21, 122:24, 126:20
- businesses** [7] - 98:16, 98:19, 98:20, 114:2, 114:8, 114:9, 120:11
- busy** [1] - 116:18
- but..** [1] - 123:22
- buttressed** [1] - 102:18
- buy** [4] - 29:14, 29:24, 34:20, 124:6
- buying** [10] - 16:10, 29:21, 31:6, 37:18, 43:5, 56:10, 56:11, 64:25, 110:15, 110:16
- BY** [2] - 2:23, 3:3
- by..** [1] - 9:4
- 
- C**
- 
- camera** [4] - 23:5, 58:12, 59:8, 59:11
- cameraman** [1] - 58:12
- cameras** [1] - 23:6
- cannot** [2] - 16:10, 88:16
- canopy** [2] - 73:24, 74:21
- capacities** [1] - 85:19
- capacity** [2] - 58:1, 110:22
- car** [2] - 49:25, 50:10
- Care** [2] - 99:5, 99:20
- care** [1] - 106:13
- carefully** [1] - 121:8
- carried** [2] - 128:5, 129:23
- carry** [3] - 127:12, 127:13, 128:2
- cars** [5] - 48:20, 48:25, 60:6, 75:1, 116:18
- case** [1] - 19:4
- cash** [2] - 28:22, 78:8
- causes** [1] - 40:11
- causing** [1] - 40:11
- caution** [1] - 126:4
- caveats** [1] - 102:20
- CCR** [2] - 2:24, 131:23
- cease** [1] - 58:2
- ceiling** [1] - 12:19
- Center** [2] - 99:5, 99:22
- center** [6] - 16:12, 85:6, 85:13, 85:17, 94:11, 100:9
- centers** [2] - 77:17, 85:19
- certain** [11] - 18:16, 20:17, 77:14, 79:3, 80:13, 109:10, 121:9, 128:3, 128:5, 128:7, 130:5
- certainly** [11] - 7:22, 13:8, 19:21, 21:13, 69:8, 71:21, 78:18, 79:8, 80:4, 97:8, 102:14
- certifications** [1] - 6:12
- certified** [2] - 1:23, 6:10
- Certified** [2] - 99:14, 131:4
- certify** [1] - 131:6
- CERTIFY** [2] - 131:9, 131:13
- cetera** [1] - 50:11
- Chair** [12] - 6:8, 19:20, 26:24, 51:24, 67:9, 70:15, 88:16, 90:24, 102:10, 102:18, 127:2, 129:21
- chair** [2] - 21:1, 129:5

- Chairman** [18] - 2:2, 2:3, 7:11, 11:22, 13:11, 14:8, 48:8, 48:11, 50:16, 54:21, 59:16, 65:7, 69:21, 96:8, 97:7, 104:14, 116:24, 121:7
- CHAIRMAN** [222] - 6:3, 6:15, 6:20, 7:2, 7:18, 8:2, 9:1, 9:6, 9:8, 10:22, 13:4, 13:14, 14:11, 17:21, 18:11, 18:24, 19:14, 20:3, 20:10, 21:2, 21:10, 23:17, 24:20, 27:4, 27:12, 28:11, 28:18, 29:8, 29:17, 30:18, 36:7, 36:12, 37:5, 38:3, 38:12, 38:18, 38:23, 39:19, 41:17, 41:23, 42:6, 42:11, 42:22, 43:2, 43:6, 43:10, 43:19, 43:25, 44:9, 44:13, 44:22, 45:1, 45:4, 45:8, 45:21, 46:4, 46:7, 46:16, 46:20, 46:25, 47:3, 47:18, 48:9, 49:12, 51:12, 51:14, 51:16, 51:20, 52:2, 53:5, 53:18, 53:23, 54:1, 54:4, 54:7, 54:17, 54:22, 55:13, 55:22, 55:24, 56:1, 57:24, 58:7, 59:17, 59:24, 60:23, 61:7, 61:21, 62:3, 62:5, 62:7, 62:11, 63:25, 64:9, 65:4, 65:9, 65:13, 67:3, 67:8, 67:10, 67:22, 68:4, 68:8, 68:14, 68:22, 69:4, 69:19, 70:13, 71:1, 71:3, 71:5, 81:13, 82:19, 83:2, 83:19, 86:11, 87:10, 88:11, 88:17, 89:9, 90:20, 90:22, 90:25, 92:17, 92:23, 93:3, 93:6, 93:21, 93:24, 94:5, 94:8, 94:25, 95:3, 95:21, 96:7, 96:10, 97:4, 97:19, 97:22, 100:1, 100:16, 100:21, 101:7, 101:12, 101:22, 102:2, 102:6, 102:11, 102:15, 103:5, 103:12, 104:2, 104:16, 105:21, 106:11, 106:16, 106:19, 108:5, 108:8, 108:12, 108:17, 108:23, 109:1, 109:4, 109:7, 109:14, 109:19, 110:1, 110:4, 110:21, 110:25, 111:6, 111:10, 111:15, 111:21, 111:24, 112:8, 113:3, 113:7, 113:9, 113:11, 114:17, 114:19, 114:25, 115:11, 115:13, 115:18, 115:25, 116:3, 116:13, 116:22, 117:1, 117:8, 117:17, 118:15, 119:1, 119:20, 120:21, 121:1, 121:4, 122:16, 123:7, 123:11, 123:15, 124:20, 125:3, 125:10, 125:14, 125:22, 125:25, 126:23, 127:17, 127:24, 128:4, 128:10, 128:17, 128:25, 129:9, 129:14, 129:19, 130:2, 130:8
- chairman** [2] - 46:15, 81:23
- challenge** [3] - 33:23, 41:10, 89:4
- change** [7] - 33:4, 37:6, 91:7, 94:24, 125:2, 125:13, 126:20
- changes** [5] - 36:19, 37:4, 84:19, 128:18, 128:22
- changing** [4] - 91:21, 92:3, 94:14
- chapter** [1] - 54:24
- Chapter** [2] - 54:25, 56:4
- characteristics** [1] - 103:2
- characterize** [1] - 77:22
- charge** [1] - 34:18
- charged** [1] - 7:7
- charging** [1] - 35:2
- chat** [5] - 10:2, 26:6, 34:16, 34:18, 35:4
- check** [1] - 41:11
- checks** [1] - 123:13
- childcare** [5] - 77:17, 85:6, 85:13, 85:17, 85:18
- Chudnoff** [1] - 99:12
- Cirangel** [1] - 99:10
- circulation** [1] - 92:4
- cite** [2] - 88:24, 89:21
- cited** [1] - 90:3
- cities** [1] - 69:15
- citing** [2] - 88:11, 88:24
- citizens** [3] - 20:15, 90:6, 90:8
- city** [1] - 30:8
- civic** [4] - 86:24, 87:20, 87:22, 88:9
- clarification** [2] - 108:18, 121:14
- clarified** [1] - 20:5
- clarify** [2] - 34:9, 65:8
- clean** [3] - 24:11, 33:16, 58:23
- cleanup** [1] - 20:7
- clear** [7] - 14:25, 19:19, 20:1, 50:7, 53:11, 81:23, 117:3
- cleared** [1] - 14:17
- clearly** [2] - 104:19, 127:2
- client** [8] - 13:10, 19:11, 42:23, 120:19, 123:25, 124:1, 127:5
- clock** [1] - 122:2
- close** [9] - 43:20, 57:18, 66:4, 79:15, 79:17, 104:8, 123:12, 123:14, 130:14
- closed** [4] - 74:4, 114:4, 114:5, 114:8
- closes** [1] - 66:6
- closest** [3] - 7:16, 76:22
- CLR** [1] - 131:23
- club** [1] - 85:5
- Club** [1] - 118:24
- clubs** [1] - 77:17
- CME** [2] - 2:15, 68:1
- Code** [1] - 100:24
- code** [4] - 60:2, 60:8, 60:12, 60:13
- collaborating** [1] - 49:16
- collaboration** [1] - 49:14
- collaborators** [1] - 36:10
- colleague** [1] - 67:16
- colleagues** [1] - 51:24
- collector** [1] - 29:15
- collector-grade** [1] - 29:15
- collectors** [1] - 29:16
- college** [2] - 31:23, 32:3
- colored** [5] - 18:16, 71:16, 73:2, 75:23, 75:24
- Colored** [3] - 5:7, 5:9, 72:2
- Colorized** [1] - 76:16
- combination** [1] - 73:6
- combined** [1] - 119:25
- comfortable** [2] - 112:16, 125:7
- coming** [5] - 13:3, 48:17, 110:10, 113:24, 114:24
- commence** [1] - 11:4
- commencement** [1] - 131:6
- comment** [3] - 7:12, 39:6, 123:24
- COMMENTS/ QUESTIONS** [1] - 4:15
- commercial** [8] - 76:10, 77:7, 77:15, 88:14, 92:21, 103:1, 119:24, 124:5
- commitment** [3] - 13:21, 66:9, 70:24
- committed** [1] - 87:24
- communities** [1] - 89:19
- community** [2] - 78:18, 125:21
- companies** [3] - 10:7, 26:13, 50:21
- company** [6] - 31:14, 31:19, 31:22, 38:21, 53:21, 56:10
- Company** [1] - 3:18
- compatible** [1] - 79:16
- compelling** [1] - 84:9
- complaint** [4] - 27:13, 28:15, 28:23, 41:19
- complaints** [1] - 28:20
- complete** [1] - 6:16
- completely** [2] - 64:11, 71:3
- completeness** [1] - 77:20
- Compliance** [1] - 107:2
- compliance** [1] - 59:21
- compliant** [5] - 55:24, 82:18, 83:1, 83:18, 106:25
- compliment** [1] - 42:9
- complimented** [1] - 40:9
- comply** [5] - 55:20, 55:23, 56:24, 85:3, 95:10
- complying** [3] - 67:25, 95:7, 95:8
- components** [1] - 74:1
- compromise** [1] - 125:9
- concentrations** [1] - 89:17
- concern** [22] - 29:6, 30:21, 40:11, 40:15, 46:11, 65:18, 67:1, 67:12, 67:15, 67:19, 67:21, 106:12, 115:1, 115:7, 115:12, 116:12, 116:21, 117:10, 117:16, 117:19, 117:24, 126:11
- concerned** [7] - 15:9, 42:12, 48:24, 66:23, 66:24, 113:25, 123:12
- concerns** [37] - 16:3, 17:20, 19:15, 27:1, 30:25, 43:21, 44:9, 61:2, 68:12, 98:7, 102:16, 103:8, 112:19, 112:22, 113:4, 113:8, 113:9, 113:18, 114:10, 115:16, 115:19, 115:23, 116:24, 118:2, 118:12, 118:20, 118:21, 119:6, 119:18, 119:25, 120:1, 120:15, 121:8, 121:9, 123:22, 124:24, 127:16
- concession** [2] - 97:5, 123:21
- concessions** [4] - 13:9, 126:24, 127:6, 127:23
- concise** [2] - 24:16, 68:10
- conclude** [6] - 21:18, 21:22, 96:12, 102:19, 112:11, 127:9
- concludes** [1] - 44:5
- conclusion** [1] - 25:15
- condition** [3] - 57:3, 57:6, 100:13
- conditions** [5] - 14:4, 59:20, 70:23, 87:8, 98:4
- conduct** [2] - 9:18, 110:11
- conducted** [2] -

- 16:16, 73:7  
**conducting** [3] - 45:11, 47:14, 52:19  
**confer** [3] - 120:19, 120:22, 127:4  
**configuration** [1] - 101:19  
**confined** [1] - 111:16  
**confirm** [4] - 11:22, 23:11, 39:11, 106:24  
**confirmed** [2] - 65:17, 107:6  
**conformance** [1] - 107:1  
**conforming** [1] - 83:17  
**conformities** [1] - 103:23  
**conformity** [1] - 101:20  
**confused** [1] - 29:1  
**confusing** [1] - 116:10  
**congestion** [1] - 86:23  
**connection** [2] - 67:6, 118:20  
**consider** [5] - 10:12, 34:1, 39:25, 72:20, 83:16  
**consideration** [2] - 13:2, 13:9  
**considering** [1] - 103:16  
**considers** [1] - 74:6  
**consistent** [4] - 87:4, 117:4, 117:6, 128:12  
**consternation** [1] - 29:1  
**constructed** [1] - 87:1  
**construction** [1] - 89:23  
**CONSULTANTS** [1] - 2:12  
**Consulting** [1] - 4:7  
**consulting** [1] - 79:13  
**contacts** [1] - 41:24  
**content** [37] - 14:14, 17:14, 18:1, 18:3, 18:5, 44:17, 44:18, 44:20, 45:5, 45:18, 46:14, 46:17, 47:22, 48:2, 48:13, 48:14, 49:17, 61:5, 61:13, 61:15, 62:1, 64:1, 65:1, 79:6, 87:6, 108:14, 108:18, 108:20, 109:2, 109:5, 109:9, 109:11, 110:6, 111:7, 113:14, 120:7, 122:23  
**contents** [1] - 41:20  
**context** [1] - 77:10  
**continuation** [1] - 6:13  
**continue** [5] - 19:4, 22:18, 65:14, 101:21, 122:21  
**CONTINUED** [1] - 1:20  
**contract** [2] - 23:1, 23:9  
**Contract** [2] - 5:6, 23:24  
**contracting** [1] - 84:23  
**contrast** [1] - 103:17  
**contrasted** [1] - 78:9  
**contribute** [2] - 89:18, 113:2  
**contribution** [2] - 42:7, 126:9  
**controls** [1] - 122:11  
**convenience** [1] - 79:19  
**convenient** [1] - 90:11  
**conversation** [3] - 36:9, 36:17, 40:5  
**cooperation** [1] - 55:2  
**copy** [2] - 23:1, 98:24  
**core** [1] - 63:12  
**corners** [1] - 16:17  
**Corporation** [1] - 23:9  
**correct** [22] - 19:13, 31:19, 35:5, 35:6, 47:2, 48:5, 52:7, 54:3, 54:6, 54:10, 71:15, 76:1, 81:10, 88:5, 98:17, 101:10, 107:13, 108:16, 109:3, 109:6, 116:2, 116:15  
**Correct** [1] - 18:14  
**Cosmetic** [1] - 99:17  
**cost** [1] - 85:16  
**could..** [1] - 96:9  
**counsel** [2] - 131:14, 131:17  
**Counsel** [1] - 3:6  
**count** [1] - 75:7  
**counterfeit** [1] - 41:8  
**country** [1] - 29:13  
**counts** [1] - 39:24  
**COUNTY** [1] - 1:2  
**county** [1] - 107:19  
**County** [1] - 124:5  
**couple** [7] - 14:9, 33:9, 52:15, 52:22, 53:10, 65:8, 106:20  
**course** [3] - 7:22, 21:2, 32:2  
**court** [2] - 9:2, 130:9  
**COURT** [1] - 1:22  
**Court** [1] - 1:23, 131:4  
**COURTROOM** [1] - 1:11  
**courts** [1] - 60:15  
**cover** [3] - 12:13, 33:8, 78:21  
**covered** [1] - 74:24  
**COVID** [2] - 32:10, 52:13  
**crazy** [1] - 59:2  
**create** [8] - 44:18, 44:20, 82:17, 83:8, 87:25, 108:20, 110:22, 120:6  
**created** [1] - 127:6  
**creates** [1] - 49:17  
**creating** [5] - 44:17, 61:5, 82:24, 92:1, 109:1  
**creation** [25] - 10:5, 18:1, 18:5, 26:11, 45:5, 45:18, 45:20, 46:3, 46:14, 46:17, 47:22, 50:19, 61:13, 62:1, 64:2, 65:1, 79:6, 87:7, 108:14, 108:19, 109:8, 110:5, 110:6, 111:7, 122:23  
**creations** [1] - 113:14  
**creative** [2] - 89:25, 90:13  
**creator** [1] - 18:3  
**creators** [2] - 48:13, 48:14  
**creentials** [3] - 64:10, 69:18, 69:20  
**credibility** [1] - 67:13  
**credit** [1] - 41:14  
**credulous** [1] - 45:9  
**criteria** [10] - 38:7, 38:8, 61:3, 84:11, 84:13, 102:13, 103:7, 114:18, 115:1, 126:2  
**critical** [2] - 59:22, 59:25  
**critically** [1] - 50:14  
**cross** [1] - 104:6  
**cross-examine** [1] - 104:6  
**crowd** [3] - 113:20, 113:25, 114:11  
**crowds** [3] - 114:20, 115:8, 116:17  
**crude** [1] - 81:25  
**crystal** [1] - 14:25  
**current** [2] - 87:8, 101:1  
**curt** [1] - 13:5  
**custom** [1] - 48:20  
**customer** [1] - 29:20  
**customers** [7] - 44:4, 47:16, 74:12, 78:7, 121:23, 121:24, 122:23  
**cut** [1] - 70:7
- 
- D**
- 
- D(1** [1] - 83:22  
**d(1** [1] - 38:8  
**D-E-A-N** [1] - 69:9  
**daily** [1] - 58:9  
**damage** [6] - 103:9, 115:2, 115:3, 116:1, 116:14, 117:21  
**dance** [1] - 77:18  
**DANIEL** [1] - 2:7  
**Daniel** [1] - 125:19  
**DANNY** [1] - 2:15  
**Danny** [1] - 52:2  
**dark** [2] - 66:10, 66:15  
**date** [9] - 127:14, 127:20, 128:3, 128:5, 128:6, 129:12, 130:5, 131:12  
**daycare** [1] - 94:11  
**days** [15] - 33:9, 42:13, 43:12, 44:1, 45:13, 52:22, 56:14, 58:4, 59:11, 108:19, 108:21, 108:23, 109:8, 109:10, 117:11  
**deadline** [2] - 112:11, 120:22  
**deal** [5] - 27:21, 42:24, 48:25, 93:25, 126:16  
**dealer** [2] - 16:10, 83:14  
**dealerships** [1] - 49:25  
**deals** [1] - 126:13  
**DEAN** [5] - 4:6, 69:3, 69:8, 69:13, 69:21  
**Dean** [22] - 4:7, 10:19, 20:6, 21:8, 24:13, 42:1, 65:10, 68:10, 69:2, 69:8, 70:14, 76:19, 81:6, 85:10, 89:10, 97:20, 98:12, 100:2, 100:19, 103:5, 104:3, 108:9  
**Dean's** [2] - 67:24, 120:10  
**dear** [2] - 110:25, 125:14  
**decision** [2] - 11:3, 97:19  
**decorative** [1] - 73:25  
**defer** [4] - 36:14, 90:23, 106:1, 120:17  
**deferred** [1] - 8:8  
**define** [1] - 55:10  
**defined** [1] - 111:7  
**defines** [1] - 8:23  
**definitely** [2] - 30:23, 34:6  
**definition** [2] - 33:23, 55:12  
**defunct** [1] - 54:1  
**degree** [1] - 128:24  
**delivered** [1] - 13:12  
**demolished** [3] - 85:23, 90:16, 120:14  
**demolition** [2] - 87:2, 89:24  
**Dennis** [1] - 7:15  
**densities** [1] - 89:17  
**density** [2] - 92:8, 92:10  
**dentist** [2] - 99:8, 99:16  
**Dentistry** [1] - 99:22  
**dentists'** [1] - 118:7  
**Department** [1] - 100:25  
**department** [4] - 24:3, 24:4, 24:10  
**derive** [1] - 110:7  
**Dermatology** [1] - 99:17  
**dermatology** [1] - 99:18  
**describe** [2] - 25:14, 33:21  
**described** [3] - 8:10, 9:10, 103:24  
**describing** [1] - 16:14  
**DESCRIPTION** [1] - 5:3  
**description** [3] - 8:15, 22:21, 22:22  
**design** [5] - 87:22, 91:19, 91:22, 96:16, 105:21  
**desirable** [6] - 87:25, 90:13, 91:3, 93:17, 94:16, 94:23  
**desired** [1] - 18:17  
**despite** [1] - 129:2  
**detail** [1] - 80:19  
**details** [2] - 5:9, 76:17  
**detriment** [1] - 103:20  
**detrimental** [1] - 125:21  
**developed** [2] -

72:24, 77:24  
**developer** [1] - 124:13  
**developers** [1] - 124:5  
**development** [4] - 90:14, 92:9, 92:13, 118:4  
**devoted** [4] - 61:12, 108:13, 109:8, 122:23  
**diamonds** [1] - 55:16  
**Dick's** [1] - 79:19  
**die** [1] - 37:23  
**different** [13] - 35:21, 38:23, 40:5, 50:11, 51:11, 56:12, 59:1, 67:20, 78:1, 88:3, 101:11, 116:7, 116:19  
**difficult** [1] - 120:10  
**digitally** [2] - 71:15, 71:20  
**diligence** [2] - 6:24, 42:9  
**direct** [2] - 27:3, 74:15  
**direction** [1] - 74:13  
**directly** [1] - 114:18  
**discuss** [5] - 68:11, 98:6, 112:9, 112:21, 123:8  
**discussed** [1] - 36:14  
**discussion** [2] - 48:18, 97:14  
**dislike** [1] - 46:25  
**dismantle** [1] - 12:12  
**dismantled** [1] - 12:8  
**dispersions** [1] - 41:24  
**dispose** [1] - 56:14  
**dispositive** [2] - 41:22, 41:23  
**distinction** [1] - 76:7  
**distributed** [1] - 11:5  
**DO** [2] - 131:9, 131:13  
**document** [1] - 6:21  
**doing..** [1] - 111:23  
**Dolan** [1] - 4:7  
**dollars** [1] - 64:4  
**dominating** [1] - 129:7  
**done** [8] - 37:16, 74:11, 76:3, 77:7, 97:10, 109:22, 109:24, 113:17  
**doors** [8] - 43:7, 43:8, 43:9, 47:15, 52:6, 121:19, 121:23  
**DOT** [4] - 97:12, 97:16, 107:22, 108:2  
**DOUGLAS** [1] - 3:17

**Douglas** [1] - 13:16  
**down** [1] - 13:3, 33:12, 33:14, 53:1, 74:20, 82:10, 93:22, 94:20, 96:22, 110:12, 117:15  
**drabs** [1] - 39:21  
**draw** [1] - 113:24  
**drawing** [1] - 17:9  
**dress** [1] - 79:24  
**dribs** [1] - 39:21  
**drive** [9] - 72:24, 74:1, 74:2, 74:5, 74:11, 74:13, 74:23, 75:2, 78:1  
**drive-in** [2] - 72:24, 78:1  
**drive-thru** [7] - 74:1, 74:2, 74:5, 74:11, 74:13, 74:23, 75:2  
**driver's** [1] - 31:7  
**driveway** [2] - 74:12, 80:11  
**dropped** [1] - 53:15  
**drug** [6] - 15:22, 16:1, 19:6, 27:7, 27:10, 40:22  
**due** [5] - 6:24, 42:8, 82:10, 84:19, 101:19  
**duke** [1] - 60:14  
**duly** [2] - 83:20, 131:7  
**during** [4] - 21:14, 32:10, 114:4, 123:2

---

## E

---

**eagles** [1] - 58:1  
**early** [1] - 24:2  
**east** [1] - 73:23  
**easy** [1] - 60:5  
**economics** [3] - 82:10, 83:16, 85:15  
**edification** [1] - 68:12  
**editing** [4] - 109:6, 109:20, 109:21, 109:24  
**effect** [2] - 15:13, 113:25  
**effective** [1] - 122:17  
**efficiency** [2] - 13:12, 72:23  
**Eight** [1] - 99:19  
**eight** [1] - 20:24  
**either** [7] - 18:7, 41:24, 78:22, 87:23, 102:5, 109:22, 120:7  
**elaborate** [1] - 49:19  
**Electronic** [1] - 23:8  
**element** [7] - 27:15, 72:19, 79:3, 79:7, 79:12, 80:14, 104:24  
**elements** [2] - 74:5, 103:17  
**eliminated** [1] - 102:7  
**Email** [1] - 3:5  
**emanate** [1] - 110:8  
**emanating** [1] - 102:16  
**employee** [2] - 131:14, 131:16  
**employees** [1] - 122:25  
**emptied** [2] - 21:24, 22:6  
**empty** [2] - 93:7, 123:18  
**encompass** [1] - 87:6  
**encourage** [1] - 91:19  
**encouraged** [1] - 79:8  
**encouraging** [1] - 91:22  
**end** [8] - 11:21, 16:9, 16:10, 60:19, 83:13, 95:24, 97:25, 118:24  
**ended** [1] - 52:14  
**ends** [1] - 22:14  
**enforce** [2] - 40:20, 65:19  
**enforced** [1] - 124:15  
**enforcement** [4] - 60:2, 60:9, 60:13  
**engage** [1] - 55:2  
**ENGINEER** [14] - 65:7, 65:11, 65:15, 96:8, 96:14, 97:3, 101:9, 102:4, 106:20, 107:5, 107:8, 107:14, 107:25, 108:3  
**engineer** [4] - 10:19, 24:14, 68:24, 69:25  
**Engineer** [1] - 2:15  
**engineering** [2] - 70:18, 70:21  
**Engineering** [1] - 99:10  
**Engineers** [1] - 4:7  
**enhance** [2] - 91:5, 114:16  
**enhanced** [1] - 103:21  
**enhancement** [1] - 103:24  
**enjoy** [1] - 57:25  
**enjoys** [1] - 90:10  
**ensure** [6] - 9:2, 29:4, 29:20, 59:21, 112:15, 123:13  
**entail** [1] - 53:11  
**entails** [1] - 110:18  
**enter** [2] - 23:18, 39:23

**entire** [2] - 12:5, 27:6  
**entirety** [1] - 111:14  
**enumerated** [1] - 93:11  
**environment** [10] - 79:14, 84:20, 88:1, 89:20, 89:22, 90:13, 91:3, 93:10, 93:17, 94:17  
**environs** [1] - 75:14  
**Envision** [1] - 99:5  
**envisioned** [1] - 87:9  
**equivalent** [2] - 103:14, 103:15  
**err** [1] - 126:3  
**especially** [4] - 40:12, 42:7, 43:22, 113:12  
**ESQUIRE** [2] - 2:13, 3:3  
**essentially** [2] - 72:14, 74:17  
**establish** [1] - 28:24  
**established** [3] - 17:24, 18:1, 46:2  
**establishment** [2] - 27:8, 89:16  
**estate** [1] - 124:13  
**esteemed** [1] - 6:5  
**et** [1] - 50:11  
**evaluate** [1] - 120:3  
**evaluated** [1] - 36:2  
**evaluating** [1] - 79:4  
**evening** [19] - 6:14, 10:15, 11:1, 11:4, 13:2, 13:16, 15:11, 27:5, 61:5, 69:3, 69:4, 78:5, 127:4, 127:9, 127:13, 129:2, 129:7, 129:8, 130:15  
**event** [4] - 42:14, 42:19, 43:15, 89:3  
**evidence** [2] - 9:16, 24:5  
**exactly** [3] - 62:10, 91:21, 107:12  
**examination** [3] - 25:13, 26:25, 110:19  
**examination-type** [1] - 110:19  
**examine** [1] - 104:6  
**example** [1] - 17:9  
**exceeded** [1] - 8:15  
**excellent** [1] - 49:21  
**except** [2] - 14:14, 16:16  
**exception** [5] - 87:11, 101:9, 102:3, 102:4, 107:21  
**exceptions** [1] - 56:9  
**exchange** [10] - 14:14, 14:16, 14:21, 14:24, 15:4, 15:6, 28:22, 37:11, 37:12, 57:5  
**exclusive** [2] - 111:8, 122:22  
**excuse** [1] - 26:23  
**executive** [1] - 11:3  
**exemption** [1] - 87:12  
**EXHIBIT** [1] - 5:3  
**exhibit** [11] - 11:6, 23:18, 70:22, 72:9, 73:2, 75:13, 75:16, 80:17, 80:23, 81:12  
**Exhibit** [9] - 11:9, 11:13, 23:24, 72:2, 73:14, 76:16, 76:25, 81:18, 82:5  
**exhibits** [1] - 71:7  
**exist** [2] - 10:2, 26:7  
**existing** [8] - 9:17, 70:23, 73:22, 84:1, 102:8, 103:22, 106:23, 107:8  
**exists** [1] - 90:1  
**exit** [2] - 74:14, 77:9  
**expand** [1] - 49:18  
**expansion** [1] - 85:9  
**expect** [2] - 62:19, 122:15  
**expected** [1] - 87:5  
**experience** [1] - 29:19  
**expert** [1] - 64:3  
**expertise** [1] - 29:18  
**experts** [1] - 29:11  
**explain** [1] - 40:17  
**explore** [1] - 128:23  
**expressed** [6] - 102:21, 115:10, 115:24, 116:5, 117:18, 126:13  
**expressing** [1] - 115:3  
**expressly** [1] - 79:1  
**extend** [1] - 120:21  
**extension** [1] - 130:1  
**extent** [2] - 57:6, 106:3  
**exterior** [2] - 50:10, 66:11  
**extra** [3] - 11:17, 42:15, 48:24  
**eye** [1] - 78:17  
**eyes** [1] - 118:18

---

## F

---

**face** [10] - 29:1, 82:16, 83:6, 83:9, 94:20, 95:8, 95:20, 96:1, 104:25, 105:3  
**faceted** [1] - 35:9  
**facilitate** [1] - 128:11  
**facility** [3] - 15:11, 27:11, 34:8  
**fact** [4] - 40:12, 42:8,

- 45:10, 84:22  
**fair** [1] - 12:21  
**fairly** [1] - 78:8  
**Faktor** [1] - 99:7  
**FAKTOR** [1] - 99:8  
**fall** [2] - 115:19, 115:23  
**falling** [1] - 29:21  
**familiar** [1] - 72:7  
**family** [2] - 124:3, 124:10  
**far** [2] - 34:22, 48:24  
**fashion** [1] - 127:15  
**fast** [1] - 117:13  
**favorably** [2] - 57:7, 74:6  
**avored** [1] - 84:21  
**favorite** [1] - 119:4  
**feature** [2] - 80:16, 80:17  
**featured** [2] - 72:7, 76:7  
**features** [4] - 73:4, 73:24, 75:5, 104:1  
**February** [1] - 77:21  
**federal** [3] - 101:1, 101:4, 101:10  
**fee** [2] - 34:18, 35:2  
**feet** [11] - 80:21, 82:12, 82:14, 85:20, 95:17, 95:18, 100:10, 105:1, 105:2, 105:8, 105:14  
**felt** [1] - 43:16  
**fenced** [1] - 29:22  
**few** [1] - 70:16  
**field** [1] - 32:8  
**figure** [2] - 27:21, 28:19  
**file** [1] - 31:2  
**filed** [2] - 23:19, 27:13  
**film** [1] - 113:17  
**filming** [7] - 65:19, 108:24, 109:15, 109:18, 113:15, 114:11  
**Finals** [1] - 70:7  
**finances** [1] - 62:2  
**Financial** [1] - 99:21  
**financial** [1] - 108:15  
**financially** [2] - 61:16, 131:17  
**fine** [6] - 11:11, 49:23, 90:22, 95:23, 96:6, 111:24  
**finish** [1] - 126:17  
**finished** [3] - 46:8, 112:4, 121:20  
**fire** [2] - 24:4, 24:6  
**firm..** [1] - 128:1  
**first** [12] - 20:12, 25:18, 55:4, 63:8, 70:6, 71:8, 84:6, 84:14, 97:23, 100:5, 104:10, 118:6  
**firsthand** [1] - 28:13  
**fit** [2] - 19:5, 85:18  
**fitness** [1] - 77:17  
**five** [8] - 27:20, 28:19, 31:17, 68:9, 71:8, 81:5, 120:23, 125:16  
**Five** [1] - 99:14  
**five-figure** [1] - 28:19  
**flee** [1] - 91:20  
**flexibility** [2] - 79:23, 80:1  
**flip** [1] - 124:6  
**Floor** [3] - 5:5, 11:13, 61:10  
**floor** [6] - 10:16, 10:17, 10:23, 11:5, 50:10, 75:21  
**flow** [3] - 74:8, 91:20, 91:24  
**flows** [1] - 74:9  
**fly** [1] - 110:14  
**fly-on-the-wall** [1] - 110:14  
**focus** [1] - 102:23  
**focusing** [1] - 103:19  
**follow** [6] - 14:9, 44:10, 49:2, 97:1, 108:6, 129:25  
**follow-up** [4] - 14:9, 44:10, 49:2, 108:6  
**followers** [5] - 64:2, 64:5, 113:18, 114:13, 114:21  
**following** [3] - 9:18, 18:4, 121:13  
**foot** [2] - 85:6, 85:13  
**footage** [1] - 15:13  
**footprint** [1] - 85:17  
**FOR** [1] - 1:5  
**foregoing** [1] - 131:9  
**forget** [2] - 75:6, 118:3  
**forgive** [2] - 71:6, 121:4  
**former** [2] - 72:24, 77:16  
**forms** [2] - 55:3, 72:11  
**forth** [4] - 52:15, 53:9, 59:21, 131:12  
**forthcoming** [1] - 47:1  
**fortunate** [1] - 53:2  
**fortunately** [1] - 52:14  
**forward** [2] - 14:24, 38:2  
**foundation** [3] - 64:7, 64:18, 102:19  
**four** [5] - 16:17, 31:16, 74:23, 75:8, 95:14  
**Four** [1] - 99:12  
**fourth** [1] - 26:11  
**frank** [1] - 66:23  
**frankly** [1] - 17:19  
**free** [2] - 90:11, 91:23  
**Free** [1] - 100:24  
**Friday** [7] - 43:13, 43:22, 59:5, 78:8, 114:6, 117:19, 121:25  
**Fridays** [1] - 113:12  
**friend** [4] - 7:23, 28:3, 31:15, 110:9  
**friends** [1] - 7:16  
**front** [8] - 12:5, 40:4, 72:18, 72:21, 84:3, 96:20, 101:16, 101:17  
**frontage** [4] - 12:1, 12:5, 97:16, 100:9  
**fully** [1] - 95:19  
**FURTHER** [2] - 131:9, 131:13  
**future** [4] - 79:23, 80:1, 80:3, 127:13
- 
- G**
- 
- Galvin** [2] - 7:15, 7:20  
**Gamatron** [1] - 99:10  
**gambling** [9] - 15:10, 15:15, 15:19, 15:25, 19:7, 27:7, 27:10, 28:8, 40:23  
**GARY** [5] - 4:6, 69:3, 69:8, 69:13, 69:21  
**Gary** [5] - 10:18, 19:22, 21:8, 24:13, 69:8  
**gauge** [1] - 90:17  
**gems** [4] - 54:24, 55:3, 55:21, 60:4  
**general** [7] - 56:3, 56:5, 73:5, 79:13, 84:14, 84:20, 97:8  
**generally** [1] - 87:4  
**generated** [2] - 78:3, 110:9  
**generation** [1] - 115:8  
**given** [7] - 23:10, 40:12, 42:2, 70:6, 86:9, 89:14, 124:9  
**glare** [1] - 96:21  
**goal** [11] - 20:16, 86:2, 86:6, 86:9, 86:14, 86:16, 87:13, 88:3, 88:4, 88:10  
**goals** [2] - 87:14, 88:23  
**God** [1] - 33:10  
**Goods** [1] - 79:19  
**goods** [1] - 41:8  
**Google** [1] - 29:10  
**governed** [1] - 100:24  
**governs** [1] - 54:25  
**grade** [3] - 29:15, 48:23, 104:23  
**grandfathered** [1] - 84:2  
**grant** [2] - 45:14, 84:10  
**granted** [1] - 103:19  
**granting** [8] - 19:17, 45:15, 60:25, 84:15, 102:20, 102:22, 103:14, 105:22  
**grass** [1] - 93:20  
**gray** [1] - 73:22  
**great** [4] - 7:23, 32:16, 37:23, 41:14  
**greatly** [1] - 51:21  
**green** [2] - 70:8, 73:19  
**GREGOWICZ** [15] - 2:3, 42:11, 42:22, 43:2, 43:6, 43:10, 43:19, 43:25, 46:7, 113:3, 113:7, 113:11, 114:19, 115:11, 123:11  
**Gregowicz** [5] - 45:22, 115:20, 115:24, 116:16, 117:18  
**grew** [1] - 41:15  
**ground** [9] - 82:3, 82:13, 82:17, 82:25, 83:7, 83:14, 94:21, 96:3, 120:14  
**ground-mounted** [3] - 82:13, 82:25, 83:14  
**grounds** [1] - 49:7  
**group** [4] - 34:16, 34:18, 35:4, 35:5  
**Group** [1] - 4:5  
**groups** [2] - 10:2, 26:6  
**Grove** [1] - 70:10  
**grown** [1] - 32:9  
**guarantee** [4] - 27:9, 40:17, 40:19, 40:21  
**guarantees** [1] - 19:8  
**guess** [7] - 19:22, 39:8, 52:25, 80:16, 81:24, 82:9, 128:9  
**guest** [1] - 113:23  
**guests** [1] - 113:22  
**guidance** [1] - 97:1  
**gut** [1] - 125:24  
**guy** [2] - 29:12, 35:25  
**guys** [4] - 30:13, 50:24, 96:16, 107:15
- 
- H**
- 
- half** [2] - 73:18, 95:18  
**HALL** [1] - 1:10  
**hand** [2] - 10:21, 24:23  
**handicap** [1] - 106:24  
**handle** [1] - 58:23  
**handled** [1] - 33:16  
**handouts** [1] - 10:20  
**hanging** [1] - 118:25  
**happenance** [1] - 41:3  
**happy** [1] - 127:18  
**hard** [5] - 97:24, 119:21, 120:22, 126:25, 128:14  
**hardship** [4] - 85:2, 85:5, 95:9, 101:18  
**harm** [1] - 120:1  
**HARRINGTON** [11] - 2:4, 52:4, 52:9, 52:18, 52:21, 52:24, 53:3, 115:19, 115:23, 116:2, 125:23  
**Haters** [1] - 118:23  
**Hazlet** [2] - 32:25, 53:24  
**He-Man** [1] - 118:23  
**head** [1] - 119:8  
**headlight** [1] - 96:21  
**health** [6] - 24:3, 24:10, 24:11, 77:17, 85:5, 97:9  
**Health** [1] - 99:19  
**hear** [12] - 7:25, 9:6, 9:8, 10:14, 19:7, 53:4, 68:9, 79:8, 104:11, 112:14, 112:19, 120:15  
**heard** [11] - 11:23, 27:5, 38:16, 74:5, 74:18, 75:9, 77:11, 79:3, 91:16, 117:5, 120:16  
**HEARING** [1] - 1:19  
**hearing** [6] - 6:11, 9:5, 20:2, 30:17, 91:17, 127:14  
**heavy** [1] - 45:16  
**hefty** [1] - 123:21  
**height** [6] - 82:12, 82:13, 95:16, 104:22, 104:23, 106:3  
**HEILBRUNN** [1] - 3:2  
**help** [2] - 21:8, 32:7  
**hereby** [1] - 131:6  
**hereinbefore** [1] - 131:12  
**high** [4] - 16:9, 16:10, 83:13, 95:24



**high-end** [4] - 16:9, 16:10, 83:13, 95:24  
**highest** [1] - 104:24  
**highlight** [2] - 77:4, 77:7  
**highlighted** [1] - 116:20  
**Highway** [2] - 3:3, 6:4  
**highway** [8] - 80:9, 80:11, 90:10, 91:25, 92:5, 96:22, 116:17, 116:18  
**HIGHWAY** [1] - 1:6  
**Hill** [3] - 72:8, 80:12, 81:2  
**himself** [1] - 19:8  
**hired** [3] - 7:14, 7:16, 58:3  
**hiring** [1] - 32:10  
**historically** [2] - 122:5, 122:9  
**hit** [2] - 52:13, 52:14  
**hold** [4] - 30:4, 65:9, 100:16, 101:7  
**home** [6] - 11:24, 70:4, 76:22, 84:25, 126:16  
**homework** [1] - 42:9  
**honest** [3] - 31:23, 32:1, 43:17  
**honestly** [3] - 15:12, 16:4, 60:18  
**honesty** [1] - 18:18  
**hope** [1] - 32:1  
**Hopefully** [1] - 13:22  
**hopefully** [1] - 127:14  
**hoping** [3] - 21:21, 109:24, 127:9  
**horizontal** [1] - 72:8  
**hour** [2] - 78:4, 125:8  
**hours** [20] - 15:11, 21:14, 21:16, 21:18, 42:12, 43:3, 46:11, 65:16, 66:20, 103:3, 113:19, 114:5, 117:20, 121:17, 122:21, 123:4, 125:5, 125:7, 127:8  
**house** [2] - 76:25, 120:11  
**houses** [2] - 29:16, 118:7  
**Hy** [1] - 99:10  
**Hy-Teck** [1] - 99:10

---

**I**

**idea** [3] - 64:3, 74:22, 110:5  
**identification** [6] - 11:14, 23:25, 72:3, 73:15, 80:15, 81:19  
**identifications** [1] - 56:17

**identified** [6] - 9:12, 49:9, 50:8, 76:9, 77:2, 100:5  
**identify** [2] - 70:23, 84:6  
**ilk** [1] - 79:25  
**imagine** [2] - 16:10, 105:11  
**impact** [3] - 38:9, 38:10, 60:25  
**impacts** [2] - 78:18, 84:12  
**impair** [1] - 102:24  
**impetus** [1] - 110:6  
**implied** [1] - 61:19  
**importance** [1] - 67:23  
**important** [5] - 8:22, 18:20, 49:18, 50:3, 50:14  
**impose** [2] - 14:5, 14:6  
**imposed** [1] - 14:1  
**impossible** [2] - 38:10, 83:7  
**impression** [1] - 96:1  
**improve** [2] - 93:5, 106:5  
**improvement** [2] - 91:6, 93:18  
**improvements** [4] - 72:25, 92:2, 97:7, 106:23  
**improving** [1] - 94:15  
**Inc** [1] - 2:17  
**inches** [1] - 105:2  
**include** [9] - 10:6, 23:4, 26:12, 50:20, 55:14, 77:15, 77:16, 105:12, 123:6  
**included** [2] - 50:24, 106:5  
**including** [3] - 9:23, 25:25, 105:9  
**inclusion** [1] - 124:22  
**inconsistent** [1] - 28:10  
**increased** [1] - 91:5  
**indicate** [5] - 6:9, 7:2, 17:22, 44:13, 50:19  
**indicated** [10] - 12:7, 15:2, 24:9, 27:14, 28:20, 28:24, 70:17, 81:7, 98:8, 101:16  
**indicates** [2] - 55:1, 55:6  
**indicating** [1] - 6:21  
**individual** [3] - 28:6, 55:1, 56:12  
**individuals** [2] - 119:15, 119:16  
**industry** [13] - 10:8,

23:14, 26:14, 30:2, 41:6, 47:25, 50:22, 62:22, 63:12, 63:14, 63:15, 63:19, 78:2  
**influence** [2] - 112:15, 128:19  
**influencer** [2] - 17:4, 119:17  
**influencers** [1] - 40:25  
**information** [15] - 18:13, 18:16, 19:23, 39:21, 40:2, 41:12, 41:13, 46:23, 47:7, 50:4, 51:25, 73:5, 73:9, 89:6, 117:24  
**informational** [2] - 10:9, 26:15  
**initial** [1] - 106:12  
**inoperable** [2] - 12:8, 12:15  
**input** [2] - 104:10, 120:13  
**inquiry** [2] - 8:8, 15:9  
**ins-and-outs** [1] - 110:17  
**inside** [3] - 10:17, 16:16, 122:24  
**insist** [1] - 20:22  
**insight** [1] - 129:1  
**insofar** [1] - 41:7  
**Instagram** [1] - 16:21  
**instead** [3] - 60:6, 75:1, 86:1  
**instruments** [1] - 80:7  
**insurance** [1] - 66:19  
**intend** [1] - 13:18  
**intended** [3] - 74:15, 77:12, 79:18  
**intends** [1] - 23:15  
**intensive** [1] - 78:16  
**intent** [2] - 80:5, 102:24  
**intentionally** [1] - 97:10  
**intentions** [1] - 12:14  
**interest** [1] - 37:24  
**interested** [2] - 61:22, 131:17  
**interesting** [3] - 72:19, 74:9, 92:17  
**interestingly** [1] - 72:16  
**interface** [1] - 56:16  
**interior** [4] - 49:2, 49:8, 49:21, 66:17  
**interject** [1] - 36:8  
**international** [1] - 47:15  
**internet** [1] - 31:24, 37:21, 37:22, 41:9,

41:11, 67:6, 78:6, 118:16, 118:19, 118:20, 123:1  
**interrupt** [1] - 53:6  
**interviewed** [2] - 7:13, 9:11  
**interviews** [3] - 10:6, 26:13, 50:20  
**introduce** [2] - 38:15, 70:22  
**investment** [1] - 48:23  
**investment-grade** [1] - 48:23  
**inviting** [1] - 48:13  
**invoices** [1] - 29:24  
**involved** [1] - 62:22  
**involving** [1] - 60:6  
**island** [1] - 72:15  
**issue** [12] - 11:1, 12:6, 37:21, 50:16, 50:17, 50:23, 60:13, 75:12, 95:6, 95:8, 118:14, 122:15  
**issues** [2] - 24:9, 86:19  
**Item** [1] - 17:9  
**item** [1] - 63:8  
**items** [3] - 55:6, 56:13, 130:13  
**itself** [8] - 72:14, 73:19, 74:3, 76:12, 82:12, 85:4, 87:3, 97:13

---

**J**

**Janice** [3] - 7:22, 127:19, 129:11  
**JANICE** [1] - 2:19  
**Jen** [2] - 100:17, 106:2  
**Jen's** [1] - 104:15  
**Jennifer** [5] - 7:23, 49:13, 90:25, 95:21, 104:12  
**JENNIFER** [1] - 2:16  
**JERSEY** [2] - 1:2, 1:12  
**Jersey** [16] - 1:24, 3:4, 30:8, 31:6, 53:17, 54:13, 58:20, 58:25, 70:2, 70:3, 70:4, 70:10, 90:5, 100:24, 114:22, 131:5  
**jeweler** [1] - 23:14  
**jewelry** [38] - 9:20, 9:25, 10:4, 10:8, 14:14, 14:16, 14:20, 14:24, 25:19, 26:2, 26:8, 26:14, 28:19, 28:23, 29:12,

29:21, 35:12, 37:10, 37:12, 37:16, 48:3, 48:16, 48:20, 48:24, 49:17, 49:22, 50:22, 51:6, 55:4, 55:10, 55:18, 57:5, 57:12, 60:7, 61:24, 63:10, 64:15, 64:18  
**jewelry** [1] - 111:10  
**job** [2] - 84:8, 103:8  
**JODE** [1] - 99:23  
**john** [1] - 25:5  
**JOHN** [16] - 2:4, 4:5, 25:2, 25:5, 108:16, 108:21, 108:25, 109:3, 109:6, 109:10, 109:17, 109:21, 110:2, 110:13, 110:23, 112:7  
**John** [4] - 52:3, 53:5, 115:18, 125:22  
**joined** [1] - 32:9  
**Jordan** [1] - 21:14  
**jump** [1] - 80:14  
**JUNE** [1] - 1:14  
**June** [1] - 64:12  
**jurisdiction** [3] - 11:20, 27:11, 107:19  
**Justice** [1] - 100:25  
**justification** [1] - 83:15  
**justifies** [1] - 100:19  
**justify** [1] - 20:9  
**justifying** [1] - 87:18

---

**K**

**K&E** [4] - 99:9, 99:10  
**Kamen** [1] - 99:20  
**keep** [5] - 24:15, 30:15, 39:8, 56:13, 63:16  
**keeping** [3] - 45:16, 56:18, 107:10  
**keeps** [2] - 49:14, 78:19  
**Ken** [3] - 38:9, 46:10, 63:22  
**KENNETH** [1] - 3:3  
**kept** [1] - 55:6  
**kicks** [1] - 56:12  
**kids** [4] - 85:18, 118:5, 118:11, 119:24  
**kind** [8] - 17:18, 48:18, 56:8, 58:23, 60:4, 60:5, 101:22, 119:13  
**Kitchen** [1] - 99:5  
**Klompus** [1] - 58:7  
**KLOMPUS** [7] - 2:5, 58:8, 58:15, 59:4,

59:14, 115:17,  
126:11  
**knowledge** [1] -  
122:4  
**known** [4] - 31:18,  
39:7, 39:13, 39:15  
**knows** [2] - 10:23,  
124:10  
**kpape@hpnjlaw.  
com** [1] - 3:5

---

## L

---

**labs** [1] - 77:18  
**lack** [1] - 27:16  
**land** [3] - 75:15, 80:6,  
84:21  
**Land** [1] - 70:2  
**landlord** [4] - 13:24,  
15:3, 121:12, 124:3  
**landlord's** [1] - 14:6  
**landscaped** [1] -  
95:19  
**landscaping** [10] -  
91:5, 94:18, 94:22,  
95:14, 95:23,  
96:15, 96:19, 97:2,  
103:25, 106:6  
**large** [6] - 17:15,  
80:18, 113:20,  
114:20, 114:22,  
116:17  
**last** [18] - 7:4, 8:5,  
11:21, 14:9, 22:3,  
25:11, 33:9, 34:20,  
36:9, 42:8, 50:6,  
50:16, 63:7, 75:13,  
87:13, 87:15,  
91:17, 116:9  
**lasts** [1] - 63:7  
**late** [2] - 44:7, 45:13  
**latest** [1] - 21:25  
**law** [2] - 7:17, 125:25  
**LAW** [1] - 2:14  
**LCSW** [1] - 99:20  
**leads** [2] - 49:17,  
72:11  
**learning** [1] - 116:9  
**lease** [1] - 52:13  
**leasing** [2] - 80:1,  
84:20  
**least** [3] - 40:5, 58:20,  
96:18  
**leave** [5] - 79:22,  
90:6, 90:17, 127:10  
**leaves** [2] - 22:3, 53:8  
**leeway** [1] - 45:12  
**left** [5] - 7:8, 31:23,  
32:2, 77:1, 81:3  
**legal** [7] - 8:16, 8:19,  
8:20, 8:21, 9:12,  
9:14, 58:1  
**legally** [1] - 101:4  
**legit** [1] - 39:1  
**legitimacy** [1] - 29:3

**legitimate** [1] - 29:6  
**Leon** [1] - 2:17  
**letter** [4] - 28:15,  
28:23, 100:6,  
129:25  
**letters** [2] - 27:13,  
41:19  
**LEVITON** [209] - 2:2,  
6:3, 6:15, 6:20, 7:2,  
7:18, 8:2, 9:1, 9:6,  
9:8, 10:22, 13:4,  
13:14, 14:11,  
17:21, 18:11,  
18:24, 19:14, 20:3,  
20:10, 21:2, 21:10,  
23:17, 24:20, 27:4,  
27:12, 28:11,  
28:18, 29:8, 29:17,  
30:18, 36:7, 36:12,  
37:5, 38:3, 38:12,  
38:18, 38:23,  
39:19, 41:17,  
41:23, 42:6, 44:9,  
44:13, 44:22, 45:1,  
45:4, 45:8, 45:21,  
46:4, 46:16, 46:20,  
46:25, 47:3, 47:18,  
48:9, 49:12, 51:12,  
51:14, 51:16,  
51:20, 52:2, 53:5,  
53:18, 53:23, 54:1,  
54:4, 54:7, 54:17,  
54:22, 55:13,  
55:22, 55:24, 56:1,  
57:24, 58:7, 59:17,  
59:24, 60:23, 61:7,  
61:21, 62:3, 62:5,  
62:7, 62:11, 63:25,  
64:9, 65:4, 65:9,  
65:13, 67:3, 67:8,  
67:10, 67:22, 68:4,  
68:8, 68:14, 68:22,  
69:4, 69:19, 70:13,  
71:1, 71:3, 71:5,  
81:13, 82:19, 83:2,  
83:19, 86:11,  
87:10, 88:11,  
88:17, 89:9, 90:20,  
90:22, 90:25,  
92:17, 92:23, 93:3,  
93:6, 93:21, 93:24,  
94:5, 94:8, 94:25,  
95:3, 95:21, 96:7,  
96:10, 97:4, 97:19,  
97:22, 100:1,  
100:16, 100:21,  
101:7, 101:12,  
101:22, 102:2,  
102:6, 102:11,  
102:15, 103:5,  
103:12, 104:2,  
104:16, 105:21,  
106:11, 106:16,  
106:19, 108:5,  
108:8, 108:12,

108:17, 108:23,  
109:1, 109:4,  
109:7, 109:14,  
109:19, 110:1,  
110:4, 110:21,  
110:25, 111:6,  
111:10, 111:15,  
111:21, 111:24,  
112:8, 113:9,  
114:17, 114:25,  
115:13, 115:18,  
115:25, 116:3,  
116:13, 116:22,  
117:1, 117:8,  
117:17, 118:15,  
119:1, 119:20,  
120:21, 121:1,  
121:4, 122:16,  
123:7, 123:15,  
124:20, 125:3,  
125:10, 125:14,  
125:22, 125:25,  
126:23, 127:17,  
127:24, 128:4,  
128:10, 128:17,  
128:25, 129:9,  
129:14, 129:19,  
130:2, 130:8  
**license** [4] - 31:8,  
55:5, 56:15, 56:25  
**License** [2] - 2:24,  
131:23  
**licensed** [1] - 69:25  
**lieu** [1] - 74:23  
**life** [1] - 37:22  
**lift** [1] - 45:16  
**light** [1] - 41:25  
**lighter** [1] - 73:20  
**lighting** [5] - 22:1,  
22:2, 22:15, 22:16,  
22:19  
**lights** [7] - 22:9,  
22:14, 65:21,  
65:22, 66:9, 66:12,  
66:17  
**likely** [1] - 112:12  
**limit** [1] - 97:24  
**limitations** [1] -  
102:21  
**limited** [6] - 49:2,  
51:3, 79:11, 79:20,  
93:9, 97:15  
**line** [6] - 44:10, 45:25,  
100:9, 115:20,  
115:24, 124:11  
**list** [4] - 25:14, 43:25,  
69:15, 99:24  
**listed** [5] - 32:22,  
35:18, 63:9, 98:21,  
98:22  
**listen** [3] - 93:14,  
95:24, 111:2  
**listened** [4] - 6:11,  
17:25, 121:8, 124:8  
**literally** [1] - 83:15

**live** [4] - 23:7, 37:22,  
37:23, 114:22  
**LLC** [6] - 1:6, 1:22,  
2:14, 3:2, 4:7, 6:4  
**loading** [4] - 101:15,  
101:23, 101:25,  
102:1  
**loans** [1] - 57:4  
**local** [4] - 30:14,  
101:5, 101:11  
**location** [10] - 52:6,  
52:10, 52:11,  
52:12, 90:9, 91:19,  
91:22, 92:13,  
111:20, 111:21  
**locations** [2] - 88:14,  
90:4  
**lock** [2] - 121:22,  
121:23  
**locked** [5] - 43:7,  
43:9, 47:15, 52:6,  
122:8  
**longest** [1] - 59:1  
**look** [7] - 39:20,  
96:18, 114:8,  
118:1, 118:7,  
119:21, 119:24  
**looked** [1] - 33:1  
**looking** [6] - 8:24,  
14:24, 64:6, 80:25,  
87:7, 95:25  
**looks** [2] - 57:7,  
128:14  
**loose** [1] - 117:13  
**Lopez** [5] - 96:10,  
96:23, 101:8,  
102:3, 106:19  
**LOPEZ** [15] - 2:15,  
65:7, 65:11, 65:15,  
96:8, 96:14, 97:3,  
101:9, 102:4,  
106:20, 107:5,  
107:8, 107:14,  
107:25, 108:3  
**LOT** [1] - 1:6  
**luck** [1] - 41:3

---

## M

---

**main** [4] - 58:16,  
67:12, 110:13,  
117:10  
**maintain** [2] - 31:2,  
70:9  
**maintained** [1] - 55:7  
**maintaining** [2] -  
44:14, 53:12  
**major** [1] - 119:18  
**maker** [1] - 79:24  
**MAMERO** [1] - 81:14  
**man** [1] - 123:25  
**Man** [1] - 118:23  
**man's** [1] - 64:10  
**managing** [1] - 78:18  
**MANALAPAN** [3] -  
1:1, 1:10, 1:12  
**Manalapan** [12] -  
2:18, 2:20, 20:15,  
20:16, 20:19,  
41:14, 41:15, 54:5,  
70:11, 96:1, 99:19,  
116:20  
**mandates** [1] - 84:25  
**Manhattan** [5] -  
53:10, 53:12,  
53:19, 54:8, 54:11  
**manner** [1] - 68:10  
**Mantagas** [4] - 6:10,  
6:23, 117:9, 117:21  
**MANTAGAS** [8] - 2:6,  
6:19, 47:21, 48:1,  
48:4, 48:7, 117:10,  
125:6  
**mantagas** [1] - 47:20  
**manually** [1] - 65:23  
**map** [1] - 100:8  
**mark** [2] - 23:20,  
81:13  
**marked** [9] - 9:16,  
11:13, 23:16,  
23:25, 72:3, 73:15,  
76:17, 81:19, 82:6  
**market** [1] - 84:25  
**marketing** [3] - 10:3,  
26:8, 99:12  
**marking** [1] - 43:11  
**MARMERO** [26] -  
2:13, 2:14, 6:8,  
11:7, 24:22, 25:3,  
30:13, 50:15, 51:2,  
51:9, 54:20, 54:23,  
55:11, 55:17, 56:4,  
56:20, 57:12,  
57:18, 57:21, 60:3,  
60:10, 60:21, 69:5,  
69:10, 69:14, 130:4  
**Marmero** [4] - 6:22,  
24:21, 98:3, 130:2  
**Massachusetts** [1] -  
70:5  
**match** [1] - 18:23  
**matter** [2] - 36:15,  
66:5  
**matters** [1] - 108:15  
**maximum** [1] - 82:13  
**Mazal** [1] - 35:25  
**mean** [14] - 19:21,  
35:2, 41:15, 42:16,  
43:19, 48:22,  
52:18, 58:21, 64:1,  
80:14, 88:21,  
93:13, 95:22, 111:4  
**meant** [1] - 20:25  
**measured** [1] -  
104:23  
**media** [15] - 10:2,  
14:15, 17:4, 26:7,  
34:8, 34:23, 34:24,  
36:6, 40:24, 41:1,  
48:12, 60:5, 79:6,

- 87:6, 119:17  
**Media** [1] - 4:5  
**medical** [2] - 77:16, 77:18  
**meet** [7] - 54:11, 90:5, 94:3, 94:4, 96:24, 101:1, 126:1  
**MEETING** [1] - 1:5  
**meeting** [6] - 11:21, 14:10, 36:9, 42:8, 68:23, 121:5  
**meets** [1] - 90:7  
**melt** [1] - 56:14  
**member** [2] - 20:23, 35:3  
**MEMBER** [116] - 6:16, 6:19, 15:21, 15:24, 16:18, 16:23, 16:25, 18:8, 18:12, 18:15, 20:21, 20:25, 30:4, 30:10, 30:20, 30:24, 31:4, 31:9, 31:13, 31:18, 31:25, 32:17, 32:21, 33:2, 33:6, 33:11, 33:18, 33:20, 33:25, 34:3, 34:7, 34:10, 34:13, 34:22, 35:1, 35:5, 35:7, 35:11, 35:16, 35:20, 38:22, 38:25, 39:5, 39:14, 39:17, 40:1, 40:15, 42:5, 47:21, 48:1, 48:4, 48:7, 48:10, 48:19, 49:1, 49:5, 49:10, 51:23, 52:4, 52:9, 52:18, 52:21, 52:24, 53:3, 54:19, 55:10, 57:2, 57:9, 57:11, 57:14, 57:20, 57:23, 58:8, 58:15, 59:4, 59:14, 59:16, 59:18, 60:16, 66:11, 66:14, 66:22, 67:5, 67:9, 67:11, 76:19, 76:21, 77:3, 85:10, 85:12, 97:20, 98:12, 98:14, 98:18, 98:23, 99:2, 99:25, 111:2, 115:17, 115:19, 115:23, 116:2, 116:4, 116:15, 116:23, 117:6, 117:10, 118:1, 118:17, 119:3, 125:1, 125:6, 125:12, 125:20, 125:23, 126:11  
**MEMBERS** [1] - 2:1  
**members** [11] - 6:23, 7:19, 8:13, 11:17, 26:25, 70:21, 98:2, 117:5, 121:8, 129:5, 129:21  
**Membership** [1] - 34:11  
**memory** [2] - 87:24, 98:18  
**mentioned** [4] - 34:16, 52:5, 110:3, 114:3  
**merchandise** [2] - 16:5, 41:8  
**message** [3] - 11:23, 11:24, 13:13  
**met** [3] - 24:6, 24:8, 86:9  
**metals** [4] - 54:24, 55:3, 55:21, 60:4  
**mic** [1] - 113:6  
**MICHAEL** [1] - 2:8  
**Michael** [3] - 49:12, 60:23, 125:11  
**microphone** [4] - 17:11, 17:16, 115:21, 115:22  
**microphones** [1] - 39:2  
**middle** [2] - 96:12, 126:15  
**might** [11] - 7:20, 30:13, 80:23, 113:18, 113:19, 113:23, 113:24, 118:22, 123:24, 126:22  
**million** [5] - 18:4, 64:2, 64:5, 114:13, 114:21  
**millions** [1] - 64:4  
**Millstone** [2] - 1:24, 3:4  
**mind** [2] - 9:2, 71:20  
**mine** [2] - 110:16, 110:17  
**minutes** [7] - 22:2, 22:11, 68:9, 68:15, 98:11, 120:19, 120:23  
**mirror** [1] - 18:23  
**missed** [1] - 42:8  
**mixture** [1] - 88:13  
**MLUL** [1] - 88:20  
**model** [1] - 110:18  
**moderators** [1] - 34:19  
**modifications** [4] - 107:9, 121:13, 122:16, 123:10  
**modifications..** [1] - 124:25  
**MOENCH** [13] - 2:19, 71:13, 71:19, 71:25, 75:18, 75:20, 81:16, 113:5, 115:21, 128:2, 128:8, 129:13, 129:18  
**moment** [4] - 78:21, 110:22, 110:24, 112:10  
**moments** [1] - 70:17  
**Monday** [5] - 59:5, 121:18, 122:19, 123:18  
**monetized** [1] - 35:13  
**money** [1] - 32:15  
**monitor** [1] - 34:19  
**monitoring** [3] - 26:6, 34:22, 34:24  
**Monmouth** [1] - 124:5  
**MONMOUTH** [1] - 1:2  
**montage** [1] - 86:1  
**month** [1] - 7:5  
**monthly** [2] - 34:18, 35:2  
**months** [1] - 73:8  
**monument** [8] - 12:25, 13:1, 81:8, 82:25, 94:21, 95:5, 95:13, 95:18  
**moot** [1] - 9:3  
**morning** [2] - 43:1, 78:3  
**most** [10] - 20:23, 32:8, 40:25, 56:6, 56:21, 57:25, 97:11, 108:25, 113:13, 114:4  
**mostly** [1] - 59:5  
**motion** [1] - 115:5  
**mounted** [4] - 82:13, 82:25, 83:6, 83:14  
**move** [3] - 58:25, 72:23, 74:18  
**moves** [1] - 117:12  
**multi** [1] - 35:9  
**multi-faceted** [1] - 35:9  
**multiple** [1] - 15:7  
**municipal** [1] - 60:15  
**municipality** [1] - 96:25  
**musical** [1] - 80:7  
**must** [1] - 12:1  
**Muñoz** [1] - 8:3
- 
- N**
- 
- nail** [1] - 110:12  
**NAME** [1] - 4:17  
**name** [5] - 7:15, 25:4, 38:20, 39:6, 69:6  
**native** [1] - 70:3  
**nature** [3] - 79:5, 84:4, 126:20  
**NBA** [1] - 70:7  
**near** [1] - 61:23  
**necessarily** [1] - 88:23  
**necessary** [4] - 84:5, 100:12, 100:17, 101:6  
**necessitate** [1] - 125:16  
**necessitates** [1] - 115:1  
**need** [17] - 16:20, 17:7, 17:11, 18:12, 19:22, 23:18, 30:15, 36:7, 42:15, 43:16, 45:1, 66:18, 101:3, 107:15, 108:1, 115:22, 120:24  
**needed** [3] - 11:18, 106:4, 126:14  
**needs** [15] - 18:22, 18:23, 19:23, 45:21, 45:23, 49:16, 68:5, 84:10, 86:11, 88:24, 89:7, 90:5, 90:8, 98:3, 128:18  
**negative** [12] - 38:7, 38:8, 38:9, 38:10, 61:3, 84:11, 102:12, 103:6, 114:18, 115:1, 125:18, 126:1  
**negatively** [1] - 60:25  
**negotiations** [1] - 110:15  
**neighborhood** [6] - 40:13, 61:1, 67:2, 89:19, 90:10, 118:9  
**neighborhood's** [1] - 62:18  
**net** [1] - 78:22  
**network** [1] - 73:21  
**never** [4] - 9:2, 58:2, 122:5, 122:10  
**new** [9] - 37:7, 38:15, 82:17, 82:24, 83:1, 83:8, 83:18, 116:6, 116:10  
**NEW** [2] - 1:2, 1:12  
**New** [26] - 1:24, 3:4, 30:8, 31:6, 52:12, 52:13, 52:16, 52:21, 53:17, 54:13, 58:17, 58:19, 58:20, 58:25, 59:3, 70:2, 70:3, 70:4, 70:10, 90:5, 100:24, 108:22, 114:22, 131:4  
**next** [4] - 7:15, 80:23, 81:12, 98:11  
**nice** [4] - 7:25, 74:22, 74:24, 123:25  
**night** [14] - 42:24, 43:13, 43:20, 43:22, 43:24, 44:2, 47:9, 47:11, 70:6, 117:12, 117:19, 117:20, 118:24, 129:17  
**nights** [6] - 43:13, 43:14, 43:23, 114:6  
**Nine** [1] - 99:22  
**NJ** [1] - 131:23  
**NO** [1] - 1:8  
**nobody** [1] - 32:10  
**non** [8] - 19:6, 76:13, 77:8, 83:17, 101:20, 103:23, 130:13  
**non-agenda** [1] - 130:13  
**non-conforming** [1] - 83:17  
**non-conformities** [1] - 103:23  
**non-conformity** [1] - 101:20  
**non-drug** [1] - 19:6  
**non-residential** [2] - 76:13, 77:8  
**non-use** [1] - 19:6  
**noncommercial** [1] - 77:4  
**None** [1] - 4:19  
**none** [4] - 36:13, 40:23, 104:8, 130:14  
**nonresidential** [1] - 92:9  
**normal** [1] - 114:4  
**north** [1] - 74:9  
**Notary** [2] - 131:3, 131:24  
**noted** [4] - 6:1, 68:20, 83:20, 130:20  
**nothing** [19] - 17:22, 18:21, 24:25, 27:2, 50:2, 54:2, 65:5, 69:12, 72:5, 74:25, 80:24, 81:25, 91:4, 92:1, 108:3, 122:1, 123:16, 129:18, 131:8  
**notice** [11] - 8:16, 8:19, 8:20, 8:21, 9:12, 9:14, 50:18, 50:19, 51:4, 127:25, 129:24  
**noticed** [1] - 51:7  
**notwithstanding** [1] - 120:12  
**nth** [1] - 128:23  
**Number** [4] - 6:4, 17:10, 50:9, 77:2  
**number** [1] - 21:4  
**numbers** [2] - 64:24, 65:2  
**numerous** [1] - 33:24  
**NÚVA** [1] - 99:16

- O**
- o'clock** <sup>[27]</sup> - 21:19, 21:22, 22:13, 42:24, 43:13, 43:22, 44:2, 44:8, 61:9, 65:22, 66:4, 66:6, 66:7, 117:12, 121:19, 121:22, 121:23, 121:24, 121:25, 122:1, 122:3, 123:14, 123:19, 125:8, 126:12, 126:15
- oath** <sup>[3]</sup> - 25:10, 25:11, 31:25
- objection** <sup>[3]</sup> - 101:8, 130:3, 130:4
- objective** <sup>[3]</sup> - 58:24, 59:1, 82:22
- obligated** <sup>[1]</sup> - 89:3
- obligation** <sup>[2]</sup> - 21:5, 66:19
- obtaining** <sup>[1]</sup> - 55:4
- obvious** <sup>[1]</sup> - 59:2
- obviously** <sup>[3]</sup> - 79:11, 79:17, 97:16
- occupancy** <sup>[1]</sup> - 91:21
- occupants** <sup>[1]</sup> - 75:3
- occupied** <sup>[1]</sup> - 120:9
- occupy** <sup>[1]</sup> - 36:24
- occupying** <sup>[1]</sup> - 93:7
- occur** <sup>[1]</sup> - 114:11
- occurs** <sup>[2]</sup> - 113:11, 123:12
- Ocean** <sup>[1]</sup> - 70:10
- October** <sup>[2]</sup> - 14:22, 37:13
- OF** <sup>[4]</sup> - 1:1, 1:2, 1:18
- off-site** <sup>[1]</sup> - 109:22
- off-street** <sup>[1]</sup> - 101:15
- offended** <sup>[1]</sup> - 20:21
- offense** <sup>[1]</sup> - 20:20
- offensive** <sup>[1]</sup> - 70:20
- offer** <sup>[4]</sup> - 95:19, 106:13, 127:20, 128:22
- offered** <sup>[2]</sup> - 92:24, 104:7
- office** <sup>[17]</sup> - 10:24, 27:14, 32:25, 53:12, 53:14, 53:18, 53:23, 70:9, 77:15, 77:16, 77:19, 78:12, 79:3, 79:14, 84:24, 88:14, 96:24
- OFFICE** <sup>[1]</sup> - 1:7
- Officer** <sup>[2]</sup> - 2:18, 2:19
- OFFICER** <sup>[9]</sup> - 104:13, 104:17, 105:4, 105:8, 105:17, 105:24, 106:9, 111:19, 111:22
- Officer/**
- Administrative** <sup>[1]</sup> - 2:18
- offices** <sup>[7]</sup> - 9:21, 25:21, 63:11, 77:17, 118:8, 118:9
- officially** <sup>[1]</sup> - 16:9
- officials** <sup>[2]</sup> - 24:6, 24:8
- often** <sup>[1]</sup> - 58:15
- on-site** <sup>[3]</sup> - 9:19, 25:18, 63:9
- once** <sup>[4]</sup> - 30:12, 50:12, 51:10, 53:7
- One** <sup>[2]</sup> - 16:18, 99:4
- one** <sup>[58]</sup> - 7:12, 7:21, 18:17, 23:15, 25:14, 25:18, 26:11, 27:14, 28:18, 28:19, 29:11, 32:24, 35:18, 38:1, 43:20, 45:19, 46:3, 57:24, 58:14, 58:21, 68:11, 74:14, 76:9, 78:20, 80:17, 80:22, 86:9, 87:13, 87:15, 87:19, 87:23, 87:24, 89:14, 90:2, 93:8, 93:20, 94:4, 94:5, 97:6, 100:5, 100:14, 100:22, 103:11, 104:14, 104:20, 107:21, 117:14, 117:15, 121:14, 122:5, 123:3, 123:23, 124:12, 126:6, 127:1, 130:7
- one's** <sup>[1]</sup> - 60:5
- ones** <sup>[1]</sup> - 92:15
- online** <sup>[10]</sup> - 9:19, 25:18, 33:1, 34:21, 41:6, 42:16, 43:11, 60:11, 63:9, 67:6
- OP** <sup>[6]</sup> - 1:7, 77:12, 77:14, 78:10, 78:14, 79:16
- open** <sup>[8]</sup> - 30:12, 43:16, 43:22, 44:1, 45:13, 114:4, 114:6, 117:11
- opening** <sup>[1]</sup> - 84:22
- operate** <sup>[3]</sup> - 8:25, 26:21, 57:3
- operating** <sup>[2]</sup> - 15:5, 63:8
- operation** <sup>[15]</sup> - 8:15, 21:14, 21:17, 21:18, 22:17, 35:8, 42:12, 44:4, 46:12, 61:9, 65:16, 66:20, 103:3, 119:17, 121:17
- opine** <sup>[2]</sup> - 37:9, 38:6
- opinion** <sup>[4]</sup> - 88:22, 102:17, 103:15, 103:18
- opinions** <sup>[1]</sup> - 126:8
- opportunity** <sup>[5]</sup> - 15:18, 95:12, 95:14, 105:20, 127:4
- opposed** <sup>[1]</sup> - 120:9
- opposition** <sup>[2]</sup> - 128:20, 129:2
- order** <sup>[4]</sup> - 68:23, 80:14, 90:5, 121:5
- ordinance** <sup>[15]</sup> - 17:23, 18:5, 30:14, 30:15, 54:24, 55:21, 56:3, 56:24, 62:16, 82:3, 100:25, 101:5, 101:10, 101:11, 102:25
- ordinances** <sup>[2]</sup> - 56:5, 56:6
- orient** <sup>[1]</sup> - 72:6
- orientation** <sup>[1]</sup> - 72:20
- original** <sup>[1]</sup> - 125:24
- otherwise** <sup>[6]</sup> - 44:22, 45:6, 78:15, 84:3, 87:4, 103:3
- ourselves** <sup>[1]</sup> - 123:8
- outboard** <sup>[1]</sup> - 74:3
- outcome** <sup>[1]</sup> - 18:17
- outlined** <sup>[1]</sup> - 23:13
- outlines** <sup>[1]</sup> - 83:25
- outlining** <sup>[1]</sup> - 77:22
- outs** <sup>[1]</sup> - 110:17
- outside** <sup>[11]</sup> - 12:13, 37:15, 49:6, 49:25, 50:13, 57:22, 75:4, 107:10, 107:15, 107:16, 123:17
- outstanding** <sup>[3]</sup> - 6:15, 70:24, 130:8
- overall** <sup>[2]</sup> - 80:21, 104:12
- overhead** <sup>[5]</sup> - 73:24, 74:21, 75:23, 80:19, 98:15
- overseas** <sup>[7]</sup> - 42:16, 42:23, 44:15, 45:11, 46:13, 126:13, 126:21
- overview** <sup>[1]</sup> - 101:16
- own** <sup>[5]</sup> - 43:11, 52:5, 58:23, 118:18, 120:12
- owned** <sup>[2]</sup> - 55:4, 56:9
- owner** <sup>[12]</sup> - 11:25, 13:17, 13:18, 13:21, 14:2, 14:3, 14:5, 15:3, 60:17, 60:19, 60:22, 85:2
- owners** <sup>[2]</sup> - 7:3, 40:18
- 
- P**
- P-A-W-N** <sup>[1]</sup> - 57:10
- P.E** <sup>[2]</sup> - 2:15, 4:6
- P.M** <sup>[1]</sup> - 1:15
- p.m** <sup>[12]</sup> - 6:1, 42:13, 43:3, 43:7, 44:5, 65:16, 68:18, 68:20, 113:12, 121:2, 122:21, 130:20
- P.P** <sup>[2]</sup> - 2:16, 4:6
- PAGE** <sup>[3]</sup> - 4:3, 4:17, 5:3
- page** <sup>[2]</sup> - 33:17, 81:3
- paid** <sup>[2]</sup> - 9:24, 25:25
- panel** <sup>[2]</sup> - 81:4, 82:8
- Pape** <sup>[27]</sup> - 6:5, 6:25, 8:4, 9:1, 13:4, 16:19, 18:21, 19:1, 19:21, 21:11, 42:1, 63:25, 67:22, 81:7, 82:24, 94:25, 95:3, 99:25, 104:4, 104:9, 108:5, 112:8, 117:17, 120:17, 121:6, 127:21, 130:9
- PAPE** <sup>[108]</sup> - 3:2, 3:3, 6:7, 6:18, 7:1, 7:10, 7:25, 8:5, 9:5, 9:7, 9:9, 11:11, 11:16, 12:18, 12:22, 13:11, 13:15, 14:18, 14:22, 15:17, 15:25, 16:13, 19:12, 20:12, 21:3, 21:12, 22:5, 22:8, 22:11, 22:13, 23:22, 24:2, 25:9, 25:24, 26:5, 26:11, 26:19, 26:24, 37:13, 37:25, 41:22, 44:3, 45:19, 46:1, 46:9, 47:8, 47:13, 56:2, 56:23, 57:10, 58:5, 62:20, 62:25, 63:3, 63:6, 63:14, 64:6, 64:12, 64:17, 65:25, 66:13, 68:13, 68:16, 69:17, 70:15, 71:2, 71:4, 71:11, 71:22, 73:10, 73:12, 76:2, 76:5, 81:11, 83:9, 91:12, 95:4, 96:4, 96:11, 96:23, 98:21, 98:25, 99:4, 105:1, 105:6, 105:13, 105:19, 107:3, 107:7, 107:12, 107:17, 107:22, 108:1, 108:7, 120:18, 120:24, 121:7, 123:1, 123:23, 124:23, 127:1, 127:23, 128:6, 128:16, 128:21, 129:4, 129:16, 129:21
- paper** <sup>[1]</sup> - 30:1
- paragraph** <sup>[1]</sup> - 71:17
- park** <sup>[1]</sup> - 75:1
- parking** <sup>[21]</sup> - 16:6, 16:11, 28:7, 49:6, 50:1, 50:3, 50:12, 66:15, 74:24, 75:5, 75:6, 75:11, 84:4, 92:3, 96:19, 100:15, 100:23, 101:15, 101:25, 122:14
- part** <sup>[21]</sup> - 8:17, 8:23, 20:19, 23:12, 23:19, 24:12, 28:22, 32:9, 36:9, 49:6, 50:17, 50:18, 58:13, 73:3, 74:1, 75:10, 77:20, 103:6, 108:25, 113:14, 124:6
- part-time** <sup>[2]</sup> - 58:13, 75:10
- participate** <sup>[1]</sup> - 6:13
- participation** <sup>[1]</sup> - 26:6
- participation/ monitoring** <sup>[1]</sup> - 10:1
- particular** <sup>[4]</sup> - 86:3, 86:12, 86:13, 110:18
- particularly** <sup>[2]</sup> - 78:6, 83:24
- parties** <sup>[1]</sup> - 131:15
- partners** <sup>[2]</sup> - 58:11, 66:25
- partnership** <sup>[1]</sup> - 55:1
- parts** <sup>[6]</sup> - 9:20, 25:20, 29:14, 55:19, 63:10, 64:20
- party** <sup>[1]</sup> - 13:25
- passport** <sup>[1]</sup> - 31:7
- past** <sup>[7]</sup> - 42:24, 65:20, 65:21, 66:6, 73:8, 115:8, 123:19
- pause** <sup>[1]</sup> - 120:2
- Pawn** <sup>[2]</sup> - 17:4, 57:15
- pawn** <sup>[7]</sup> - 30:16, 30:22, 56:6, 56:7, 57:4, 57:10, 57:11
- PAWN** <sup>[1]</sup> - 57:15
- pawn-shop-type** <sup>[1]</sup> -

- 56:6  
**paycheck** [1] - 78:8  
**pediatrician** [1] - 73:21  
**Pediatric** [1] - 99:6  
**people** [29] - 18:4,  
 20:24, 31:1, 33:16,  
 34:20, 35:2, 35:22,  
 36:5, 38:21, 39:1,  
 39:12, 47:24,  
 48:17, 50:6, 50:17,  
 51:5, 54:15, 58:8,  
 58:12, 58:16, 59:5,  
 59:9, 59:11, 66:10,  
 85:1, 109:11,  
 114:14, 116:17,  
 118:24  
**perceive** [1] - 39:12  
**percent** [14] - 15:23,  
 51:18, 59:11,  
 59:12, 61:12,  
 64:14, 64:24, 65:2,  
 79:10, 87:13,  
 108:13, 108:14,  
 119:10  
**percentage** [7] - 62:4,  
 62:5, 63:24, 64:13,  
 64:21, 64:22, 79:9  
**percentages** [1] -  
 64:8  
**performance** [1] -  
 124:19  
**perhaps** [1] - 24:15  
**period** [1] - 83:1  
**permanent** [1] -  
 13:25  
**permission** [6] -  
 10:21, 21:7, 36:23,  
 47:10, 47:14, 70:16  
**permit** [10] - 18:6,  
 18:8, 25:17, 25:22,  
 26:3, 26:9, 26:20,  
 77:14, 80:3, 108:2  
**permitted** [21] - 15:1,  
 15:15, 18:10,  
 22:18, 36:22, 44:4,  
 77:12, 78:10,  
 78:15, 79:1, 79:16,  
 79:18, 82:13, 84:3,  
 85:9, 90:16, 103:3,  
 105:9, 105:14,  
 120:12, 122:12  
**person** [4] - 22:3,  
 55:1, 114:15, 122:5  
**personal** [2] - 40:17,  
 40:18  
**personalities** [1] -  
 35:23  
**personality** [3] -  
 31:20, 38:19, 39:8  
**personally** [4] -  
 16:13, 28:1, 49:15,  
 118:18  
**persons** [4] - 10:7,  
 26:14, 50:21, 89:18  
**perspective** [1] -  
 70:22  
**pertains** [1] - 100:14  
**pet** [1] - 32:14  
**Photograph** [7] - 5:7,  
 5:9, 5:10, 5:11,  
 72:3, 76:17, 82:5  
**photograph** [5] -  
 30:25, 71:9, 80:24,  
 80:25, 81:18  
**photography** [3] -  
 9:23, 25:25, 32:8  
**Photoshop** [1] - 82:1  
**physically** [2] -  
 37:18, 83:7  
**pick** [2] - 7:8, 53:6  
**picking** [2] - 17:19,  
 52:25  
**pickup** [4] - 16:6,  
 16:11, 28:6, 37:19  
**picture** [1] - 39:10  
**pictures** [1] - 42:20  
**piece** [2] - 29:20, 50:3  
**pieces** [3] - 28:19,  
 29:3, 74:2  
**piggy** [1] - 117:22  
**piggy-backed** [1] -  
 117:22  
**place** [13] - 15:7,  
 15:10, 22:23,  
 43:12, 54:5, 54:13,  
 66:5, 67:23, 88:18,  
 109:23, 122:9,  
 123:2, 131:12  
**placed** [2] - 25:11,  
 69:17  
**Plan** [3] - 5:8, 61:10,  
 73:14  
**plan** [19] - 10:17,  
 10:18, 10:23, 11:5,  
 17:7, 24:14, 35:23,  
 36:4, 50:10, 73:3,  
 74:25, 75:21,  
 75:25, 77:19,  
 80:20, 97:17,  
 102:25, 103:18,  
 107:18  
**Planner** [1] - 2:16  
**planner** [7] - 10:19,  
 20:7, 24:15, 68:5,  
 68:24, 70:1, 89:7  
**PLANNER** [85] -  
 12:17, 12:21, 14:8,  
 14:12, 14:19, 15:8,  
 15:23, 16:2, 16:22,  
 16:24, 18:6, 18:10,  
 18:14, 19:20, 20:4,  
 22:4, 22:6, 22:10,  
 22:12, 27:24, 28:4,  
 36:11, 36:16, 37:8,  
 37:15, 38:5, 46:10,  
 46:18, 46:22, 47:2,  
 47:5, 49:20, 51:1,  
 51:4, 51:10, 55:15,  
 57:17, 59:22,  
 59:25, 60:8, 60:12,  
 60:18, 62:4, 63:18,  
 63:22, 68:2, 68:6,  
 81:6, 82:15, 82:23,  
 83:5, 83:11, 85:22,  
 85:25, 86:5, 86:13,  
 87:12, 88:2, 88:6,  
 88:8, 88:16, 88:21,  
 91:2, 91:14, 91:18,  
 92:20, 93:1, 93:4,  
 93:13, 93:23, 94:1,  
 94:7, 94:9, 95:1,  
 95:22, 96:6,  
 100:18, 105:23,  
 106:7, 106:8,  
 106:15, 106:18,  
 111:9, 111:12,  
 111:18  
**planner's** [1] - 120:13  
**planning** [4] - 70:12,  
 83:15, 89:8, 95:6  
**Plans** [2] - 5:5, 11:13  
**plans** [2] - 97:10,  
 107:20  
**platforms** [2] - 10:2,  
 26:7  
**Plaza** [6] - 72:10,  
 74:14, 77:2, 99:4,  
 99:7, 99:23  
**pleased** [1] - 61:17  
**pleases** [1] - 51:20  
**plethora** [1] - 94:11  
**Plus** [1] - 34:11  
**pneumatic** [1] - 12:7  
**POCHOPIN** [7] - 2:7,  
 51:23, 67:9, 67:11,  
 116:4, 116:15,  
 125:20  
**Pochopin** [2] - 51:22,  
 116:3  
**podcast** [11] - 17:7,  
 17:10, 17:17, 18:2,  
 33:20, 39:1, 47:22,  
 48:12, 122:6  
**podcast/social** [1] -  
 34:8  
**podcasting** [1] -  
 33:22  
**podcasts** [8] - 10:6,  
 16:19, 16:25,  
 26:12, 33:24, 34:1,  
 48:17, 50:20  
**Podcasts** [1] - 17:1  
**point** [5] - 8:12, 9:3,  
 45:23, 81:22, 97:23  
**pointing** [2] - 6:22,  
 76:25  
**points** [3] - 18:25,  
 21:4, 21:6  
**pole** [3] - 83:4, 83:6,  
 93:22  
**pole-mounted** [1] -  
 83:6  
**police** [5] - 24:3,  
 24:8, 56:16, 60:2,  
 60:4  
**policing** [3] - 67:15,  
 67:20, 116:5  
**popular** [2] - 84:21,  
 114:24  
**population** [3] -  
 89:17, 92:8, 92:10  
**portfolio** [1] - 124:7  
**portion** [1] - 8:21  
**position** [2] - 125:2,  
 125:13  
**positive** [2] - 38:7,  
 84:13  
**possible** [3] - 78:20,  
 114:3, 128:11  
**possibly** [4] - 71:8,  
 75:10, 87:6, 125:17  
**post** [1] - 82:2  
**potential** [10] - 35:12,  
 103:21, 114:12,  
 114:20, 115:3,  
 115:25, 116:13,  
 117:20, 119:25,  
 120:1  
**practicing** [1] - 70:2  
**pre** [1] - 84:1  
**pre-existing** [1] -  
 84:1  
**precious** [4] - 54:24,  
 55:3, 55:21, 60:3  
**predetermined** [1] -  
 17:2  
**preexisting** [2] -  
 100:13, 101:20  
**prefer** [1] - 47:8  
**preference** [1] -  
 81:24  
**premises** [3] - 15:12,  
 16:1, 97:13  
**prepare** [1] - 53:16  
**prepared** [5] - 8:6,  
 8:7, 73:4, 77:20,  
 77:21  
**presence** [1] - 44:14  
**present** [3] - 13:1,  
 42:1, 44:7  
**PRESENT** [2] - 2:1,  
 2:12  
**presentation** [7] -  
 8:6, 8:7, 11:4,  
 18:22, 65:10,  
 70:19, 129:6  
**presented** [8] - 10:18,  
 11:6, 11:20, 14:13,  
 16:7, 46:12, 73:2,  
 121:14  
**presenting** [2] -  
 20:18, 24:14  
**preservation** [3] -  
 89:19, 89:21, 91:12  
**preserve** [1] - 90:19  
**preserves** [1] - 89:24  
**pretty** [1] - 56:5  
**prevents** [1] - 122:13  
**previously** [5] -  
 22:16, 55:4, 56:9,  
 71:18, 73:25  
**Primary** [1] - 99:20  
**primary** [2] - 54:4,  
 63:20  
**Prime** [1] - 34:11  
**principal** [1] - 8:10  
**principally** [1] - 70:12  
**principals** [1] - 44:6  
**prism** [1] - 119:22  
**privy** [1] - 41:18  
**probative** [1] - 41:21  
**problem** [2] - 83:3,  
 120:7  
**problematic** [1] -  
 44:17  
**proceed** [2] - 11:1,  
 74:13  
**proceeding** [2] -  
 39:24, 131:10  
**PROCEEDINGS** [1] -  
 1:18  
**proceedings** [1] -  
 27:6  
**producing** [1] - 109:4  
**production** [2] - 34:8,  
 79:6  
**products** [1] - 16:3  
**professional** [6] -  
 10:19, 24:14,  
 24:15, 70:25,  
 93:14, 118:8  
**PROFESSIONAL** [1]  
 - 1:7  
**Professional** [2] -  
 99:23, 131:5  
**professionals** [7] -  
 8:13, 10:25, 58:3,  
 98:5, 104:11,  
 129:22, 130:10  
**proffer** [2] - 21:7,  
 67:24  
**program** [2] - 17:1  
**prohibit** [1] - 18:5  
**project** [1] - 32:14  
**promote** [9] - 86:21,  
 86:22, 89:16,  
 90:12, 91:3, 91:20,  
 91:23, 94:16, 94:23  
**promotes** [1] - 97:8  
**promoting** [3] - 36:6,  
 91:9, 93:17  
**promotion** [3] - 10:3,  
 26:8, 40:25  
**promotional** [2] -  
 10:9, 26:16  
**promotions** [1] -  
 35:24  
**prompt** [1] - 86:14  
**proofs** [3] - 68:25,  
 83:25, 126:1  
**property** [33] - 7:3,  
 8:25, 11:25, 12:1,  
 12:5, 12:6, 13:17,

13:18, 13:21, 14:2,  
14:3, 14:5, 15:3,  
15:5, 23:15, 25:17,  
26:21, 32:22,  
40:13, 60:17,  
60:19, 60:22,  
71:10, 72:13,  
72:22, 72:24,  
75:15, 76:8, 76:12,  
76:23, 85:2,  
100:11, 103:16  
**proposal** [3] - 80:8,  
97:11, 103:17  
**proposed** [9] - 5:11,  
7:4, 8:14, 78:13,  
78:16, 82:5, 94:19,  
104:22  
**proposes** [1] - 9:16  
**proposing** [2] -  
93:20, 96:17  
**proprietary** [1] -  
23:11  
**prospects** [1] - 93:9  
**proudly** [1] - 70:3  
**provide** [9] - 10:16,  
22:21, 24:24,  
34:17, 69:11, 89:3,  
89:8, 90:3, 96:20  
**provided** [7] - 6:12,  
22:22, 23:1, 86:8,  
94:10, 106:1, 106:2  
**provides** [2] - 25:12,  
86:24  
**providing** [2] - 89:5,  
93:19  
**Public** [3] - 99:14,  
131:3, 131:24  
**public** [20] - 31:3,  
31:6, 34:17, 50:17,  
50:18, 98:1,  
102:12, 103:9,  
103:20, 104:5,  
104:8, 115:2,  
115:4, 116:1,  
116:14, 117:21,  
120:2, 130:11,  
130:14  
**PUBLIC** [2] - 1:19,  
4:15  
**publication** [1] -  
129:24  
**publicly** [2] - 67:5,  
118:19  
**published** [1] - 9:15  
**pull** [1] - 12:11  
**pulling** [2] - 47:6,  
47:9  
**purchase** [5] - 16:5,  
31:1, 37:16, 55:3,  
56:8  
**purchasing** [1] - 28:5  
**pure** [1] - 41:3  
**purpose** [5] - 61:10,  
84:16, 86:19,  
88:15, 102:25

**purposes** [7] - 10:9,  
26:16, 60:22,  
72:20, 78:21,  
87:21, 89:11  
**put** [19] - 9:12, 19:23,  
32:22, 33:1, 33:17,  
37:3, 68:2, 82:16,  
83:6, 83:18, 95:12,  
97:11, 98:3, 98:10,  
112:21, 113:5,  
119:20, 122:11,  
126:25  
**putting** [4] - 66:17,  
68:25, 82:2, 96:2  
**pylon** [5] - 12:24,  
13:3, 80:19, 94:20,  
96:2  
**pylon-styled** [1] -  
12:24

---

## Q

---

**qualified** [1] - 108:14  
**qualify** [2] - 11:19,  
94:2  
**qualifying** [1] - 11:18  
**quantify** [3] - 38:10,  
61:16, 65:3  
**quarter** [1] - 127:7  
**questionability** [1] -  
126:2  
**questioned** [1] -  
38:14  
**questioning** [2] -  
29:18, 98:8  
**questions** [11] - 14:9,  
27:1, 39:9, 42:2,  
45:22, 45:25, 48:8,  
51:24, 53:8, 65:8,  
88:19  
**quick** [1] - 52:4  
**quickly** [2] - 72:23,  
98:12  
**quite** [4] - 15:12,  
16:4, 17:19, 60:18  
**quote** [1] - 41:20  
**quote/unquote** [1] -  
37:20

---

## R

---

**radical** [2] - 128:18,  
128:22  
**raise** [1] - 24:22  
**raised** [2] - 66:3, 70:5  
**ramp** [1] - 72:11  
**ramps** [1] - 106:24  
**Rascals** [1] - 119:2  
**rates** [1] - 78:2  
**rather** [5] - 13:5,  
17:15, 35:9, 74:20,  
80:18  
**rationale** [1] - 46:12  
**re** [4] - 9:15, 64:15,  
120:3, 127:25  
**re-affirm** [1] - 64:15

**re-evaluate** [1] -  
120:3  
**re-notice** [1] - 127:25  
**re-published** [1] -  
9:15  
**reached** [1] - 21:15  
**read** [7] - 6:16, 8:21,  
9:10, 9:11, 17:25,  
99:1, 99:3  
**reading** [1] - 56:2  
**ready** [1] - 14:3  
**real** [4] - 57:18,  
118:2, 118:20,  
124:13  
**reality** [2] - 18:23,  
82:15  
**realized** [1] - 8:13  
**really** [20] - 18:19,  
27:19, 32:10,  
41:16, 45:17,  
62:19, 64:3, 67:23,  
95:25, 96:17,  
111:6, 114:10,  
116:6, 117:2,  
119:5, 119:7,  
119:9, 119:14,  
119:16, 119:21  
**realm** [1] - 114:14  
**Realty** [1] - 3:18  
**rear** [1] - 72:18  
**reason** [3] - 44:14,  
77:3, 84:16  
**reasons** [9] - 59:2,  
84:6, 84:9, 84:14,  
86:7, 86:15, 87:19,  
93:10, 94:11  
**receipt** [1] - 56:17  
**receiving** [1] - 54:8  
**receptionist** [1] -  
58:13  
**recess** [3] - 68:15,  
68:18, 121:2  
**recognize** [4] - 39:22,  
42:7, 68:24, 124:18  
**recognizes** [1] -  
124:21  
**recommend** [1] -  
96:18  
**recommending** [2] -  
67:15, 96:15  
**reconstructed** [1] -  
85:23  
**record** [40] - 6:9,  
8:17, 8:22, 8:23,  
11:8, 12:4, 14:16,  
15:2, 15:15, 15:19,  
18:2, 19:23, 20:9,  
21:5, 21:16, 22:24,  
23:13, 23:19, 24:5,  
24:13, 29:25,  
37:25, 41:18,  
46:21, 50:4, 55:20,  
56:18, 57:14,  
62:19, 68:3, 68:25,  
69:6, 69:18, 98:3,  
112:2, 112:21,  
124:16, 124:17,  
124:22  
**record-keeping** [1] -  
56:18  
**recording** [1] - 122:9  
**Recording** [1] - 2:20  
**records** [1] - 55:7  
**recreation** [1] - 92:19  
**reference** [3] - 28:15,  
55:8, 119:1  
**referenced** [2] -  
28:21, 57:15  
**referred** [1] - 27:25  
**referring** [3] - 16:19,  
28:13, 67:4  
**reflect** [1] - 124:16  
**regard** [3] - 70:17,  
95:4, 104:18  
**regardless** [1] - 36:24  
**regions** [1] - 89:19  
**Registered** [1] -  
131:5  
**regretted** [1] - 13:8  
**REGULAR** [1] - 1:5  
**regularly** [1] - 27:21  
**rehabilitation** [1] -  
89:25  
**rejoin** [1] - 24:19  
**relate** [1] - 75:14  
**related** [4] - 54:8,  
61:15, 61:25,  
103:23  
**relates** [3] - 67:1,  
108:18, 115:7  
**relating** [3] - 9:22,  
25:21, 96:14  
**relative** [4] - 65:11,  
84:3, 131:14,  
131:16  
**released** [1] - 39:21  
**relevant** [1] - 117:22  
**relief** [20] - 8:18,  
13:25, 14:1, 19:17,  
45:15, 78:25,  
79:21, 82:9, 83:22,  
84:15, 100:4,  
100:12, 100:17,  
101:3, 101:6,  
101:18, 101:21,  
102:20, 103:18,  
114:7  
**relieved** [1] - 12:9  
**remain** [2] - 72:25,  
75:6  
**remaining** [1] - 83:21  
**remains** [1] - 73:19  
**remember** [1] - 7:19  
**remind** [3] - 25:3,  
25:10, 125:15  
**remiss** [2] - 128:23,  
129:1  
**remittance** [1] - 28:22  
**remotely** [1] - 42:18

**removal** [2] - 89:23,  
103:22  
**removed** [1] - 74:6  
**rendered** [1] - 73:12  
**Rendered** [2] - 5:8,  
73:14  
**rendering** [3] - 75:23,  
75:24, 82:1  
**reoccupied** [1] -  
78:14  
**repair** [1] - 119:13  
**replaced** [2] - 81:4,  
81:8  
**report** [1] - 60:12  
**REPORTED** [1] - 2:23  
**reporter** [2] - 9:2,  
130:10  
**Reporter** [2] - 131:4,  
131:5  
**Reporters** [1] - 1:23  
**REPORTING** [1] -  
1:22  
**represent** [1] - 7:3  
**representation** [2] -  
13:20, 21:16  
**representations** [1] -  
23:3  
**representatives** [3] -  
10:7, 26:13, 50:21  
**represented** [1] -  
74:5  
**represents** [3] - 79:9,  
85:1, 85:5  
**republishing** [1] -  
8:19  
**repurpose** [1] - 9:17  
**reputation** [2] - 41:2,  
41:7  
**request** [3] - 22:20,  
85:25, 102:8  
**requested** [4] - 44:23,  
51:25, 97:7, 100:20  
**requesting** [3] - 9:13,  
26:17, 96:16  
**require** [1] - 87:1  
**required** [7] - 12:25,  
31:8, 56:15, 56:16,  
56:25, 83:25,  
101:15  
**requirements** [7] -  
14:5, 56:13, 56:18,  
70:25, 87:18, 89:2,  
101:2  
**requires** [3] - 82:3,  
83:14, 89:23  
**requisite** [1] - 89:6  
**research** [1] - 99:13  
**researching** [1] -  
30:19  
**resell** [1] - 30:5  
**reserve** [1] - 88:22  
**residence** [1] - 43:11  
**residences** [1] -  
119:23

**residential** <sup>[14]</sup> - 40:13, 76:11, 76:13, 77:5, 77:6, 77:8, 77:9, 88:13, 90:9, 92:21, 100:6, 100:7, 117:15, 118:5  
**residents** <sup>[3]</sup> - 15:9, 114:1, 114:7  
**residents'** <sup>[1]</sup> - 62:17  
**respect** <sup>[3]</sup> - 63:25, 64:10, 92:2  
**respectfully** <sup>[5]</sup> - 27:24, 37:9, 38:9, 64:1, 68:7  
**respond** <sup>[1]</sup> - 11:24  
**responsibility** <sup>[3]</sup> - 14:6, 14:7, 124:21  
**responsible** <sup>[1]</sup> - 124:19  
**rest** <sup>[3]</sup> - 42:3, 115:14, 117:14  
**restore** <sup>[1]</sup> - 80:7  
**restrict** <sup>[1]</sup> - 111:23  
**restricted** <sup>[1]</sup> - 49:16  
**restroom** <sup>[1]</sup> - 68:7  
**resume** <sup>[1]</sup> - 45:25  
**retail** <sup>[9]</sup> - 9:20, 25:19, 44:4, 63:9, 79:2, 79:11, 79:17, 79:20, 80:9  
**retenancy** <sup>[1]</sup> - 74:18  
**retracted** <sup>[1]</sup> - 37:14  
**return** <sup>[5]</sup> - 7:6, 127:14, 127:15, 127:22, 129:4  
**reuse** <sup>[1]</sup> - 89:25  
**reusing** <sup>[1]</sup> - 86:25  
**reveals** <sup>[1]</sup> - 37:6  
**revenue** <sup>[1]</sup> - 65:3  
**review** <sup>[5]</sup> - 75:21, 77:20, 80:4, 83:24, 104:20  
**reviewed** <sup>[3]</sup> - 6:10, 10:24, 11:25  
**reviewing** <sup>[1]</sup> - 11:17  
**revised** <sup>[1]</sup> - 8:20  
**revolves** <sup>[1]</sup> - 48:6  
**rezoning** <sup>[1]</sup> - 103:15  
**right-of-way** <sup>[1]</sup> - 97:12  
**Rizzo** <sup>[4]</sup> - 22:1, 22:20, 66:2, 67:25  
**Road** <sup>[3]</sup> - 17:5, 72:8, 81:2  
**roads** <sup>[1]</sup> - 72:17  
**roadway** <sup>[1]</sup> - 72:15  
**ROBERT** <sup>[1]</sup> - 2:3  
**Rolex** <sup>[1]</sup> - 16:10  
**room** <sup>[1]</sup> - 17:16  
**rooted** <sup>[1]</sup> - 125:25  
**ROUTE** <sup>[1]</sup> - 1:11  
**Route** <sup>[12]</sup> - 12:2, 72:7, 72:11, 72:21,

74:15, 81:1, 81:3, 96:20, 100:7, 100:9, 102:9, 111:4  
**routes** <sup>[3]</sup> - 89:14, 91:20, 91:23  
**RPR** <sup>[2]</sup> - 2:24, 131:23  
**rudimentary** <sup>[1]</sup> - 32:20  
**rules** <sup>[1]</sup> - 117:13  
**ruling** <sup>[1]</sup> - 49:13  
**runs** <sup>[1]</sup> - 72:8  
**RWJ** <sup>[1]</sup> - 99:19

## S

**sad** <sup>[1]</sup> - 8:3  
**safes** <sup>[1]</sup> - 23:5  
**safety** <sup>[3]</sup> - 97:9, 116:16, 116:17  
**sake** <sup>[3]</sup> - 62:17, 62:18  
**sale** <sup>[1]</sup> - 10:3  
**sales** <sup>[14]</sup> - 9:20, 15:7, 25:19, 26:7, 35:12, 47:15, 63:10, 64:19, 64:20, 79:11, 79:17, 90:7  
**salient** <sup>[1]</sup> - 18:25  
**sat** <sup>[1]</sup> - 84:17  
**satellite** <sup>[1]</sup> - 53:13  
**satisfied** <sup>[2]</sup> - 88:19, 112:5  
**satisfy** <sup>[1]</sup> - 98:2  
**Saturday** <sup>[6]</sup> - 43:14, 59:6, 59:9, 114:6, 117:20, 121:25  
**Saturdays** <sup>[1]</sup> - 113:12  
**saved** <sup>[1]</sup> - 83:10  
**saw** <sup>[3]</sup> - 16:4, 33:8, 50:23  
**Sayreville** <sup>[1]</sup> - 111:4  
**scaled** <sup>[1]</sup> - 100:10  
**scenario** <sup>[1]</sup> - 94:15  
**schedule** <sup>[1]</sup> - 59:10  
**school** <sup>[1]</sup> - 7:17  
**screening** <sup>[1]</sup> - 96:21  
**search** <sup>[1]</sup> - 29:10  
**second** <sup>[2]</sup> - 25:24, 100:14  
**secondarily** <sup>[1]</sup> - 84:24  
**secondly** <sup>[2]</sup> - 91:18, 101:14  
**Secretary** <sup>[1]</sup> - 2:20  
**SECRETARY** <sup>[13]</sup> - 23:20, 71:13, 71:19, 71:25, 75:18, 75:20, 81:16, 113:5, 115:21, 128:2, 128:8, 129:13, 129:18

**section** <sup>[2]</sup> - 54:25, 55:12  
**secure** <sup>[1]</sup> - 56:25  
**Security** <sup>[3]</sup> - 5:6, 23:8, 23:24  
**security** <sup>[6]</sup> - 22:21, 22:23, 23:2, 23:13, 75:22, 122:13  
**see** <sup>[21]</sup> - 19:5, 24:5, 28:11, 28:25, 36:1, 42:3, 49:15, 56:7, 56:21, 60:11, 62:7, 67:6, 67:17, 73:17, 81:4, 104:5, 106:23, 109:18, 110:10, 127:5, 130:11  
**Seeing** <sup>[1]</sup> - 104:8  
**seeing** <sup>[2]</sup> - 52:24, 130:14  
**seek** <sup>[2]</sup> - 90:19, 101:21  
**seeking** <sup>[8]</sup> - 51:25, 55:18, 78:25, 79:22, 83:22, 100:4, 101:19, 102:18  
**seem** <sup>[4]</sup> - 33:5, 33:8, 55:8, 116:11  
**segue** <sup>[2]</sup> - 80:13, 81:22  
**self** <sup>[1]</sup> - 40:25  
**self-promotion** <sup>[1]</sup> - 40:25  
**sell** <sup>[3]</sup> - 29:14, 34:20, 55:18  
**sellers** <sup>[1]</sup> - 56:17  
**selling** <sup>[7]</sup> - 29:3, 41:7, 43:5, 56:11, 64:25, 110:15, 110:16  
**send** <sup>[1]</sup> - 71:20  
**sense** <sup>[5]</sup> - 20:2, 78:24, 93:7, 93:11, 97:11  
**sent** <sup>[2]</sup> - 71:14, 71:18  
**separate** <sup>[3]</sup> - 23:6, 86:14, 88:10  
**serial** <sup>[1]</sup> - 17:1  
**served** <sup>[1]</sup> - 74:1  
**services** <sup>[3]</sup> - 9:24, 26:1, 34:17  
**serving** <sup>[1]</sup> - 57:25  
**set** <sup>[2]</sup> - 109:23, 131:12  
**setback** <sup>[2]</sup> - 83:1, 95:7  
**setting** <sup>[1]</sup> - 57:13  
**seven** <sup>[7]</sup> - 27:21, 42:13, 43:12, 44:1, 45:13, 75:11, 117:11  
**Seven** <sup>[1]</sup> - 99:17  
**seven-figure** <sup>[1]</sup> -

27:21  
**shall** <sup>[1]</sup> - 55:2  
**shameless** <sup>[1]</sup> - 40:25  
**share** <sup>[3]</sup> - 23:11, 53:20, 121:16  
**shared** <sup>[1]</sup> - 53:21  
**Shari** <sup>[1]</sup> - 96:25  
**shenanigans** <sup>[1]</sup> - 40:22  
**shielding** <sup>[1]</sup> - 96:21  
**ship** <sup>[1]</sup> - 53:16  
**shipped** <sup>[1]</sup> - 53:15  
**shipping** <sup>[2]</sup> - 53:16, 54:8  
**shoot** <sup>[1]</sup> - 109:11  
**shop** <sup>[2]</sup> - 30:22, 56:6  
**shopping** <sup>[1]</sup> - 16:12  
**shops** <sup>[2]</sup> - 30:16, 56:8  
**short** <sup>[2]</sup> - 44:10, 109:18  
**show** <sup>[4]</sup> - 36:5, 36:25, 57:15, 74:25  
**Show** <sup>[1]</sup> - 17:5  
**showing** <sup>[2]</sup> - 110:17, 114:15  
**shown** <sup>[4]</sup> - 29:25, 73:20, 73:21, 97:9  
**shrub** <sup>[2]</sup> - 93:20, 94:17  
**shut** <sup>[4]</sup> - 65:21, 65:22, 65:24, 117:15  
**shuttered** <sup>[1]</sup> - 74:4  
**side** <sup>[3]</sup> - 40:9, 73:18, 126:3  
**sides** <sup>[2]</sup> - 72:17, 95:14  
**sidewalk** <sup>[8]</sup> - 12:1, 12:4, 73:21, 97:8, 102:9, 103:25, 107:23, 108:1  
**sign** <sup>[49]</sup> - 5:11, 12:23, 12:24, 12:25, 13:1, 13:3, 40:17, 80:19, 80:21, 81:4, 81:8, 81:9, 82:1, 82:6, 82:11, 82:12, 82:16, 82:17, 82:25, 83:6, 83:8, 83:10, 83:15, 83:17, 83:18, 91:11, 91:14, 91:17, 94:19, 94:20, 94:22, 95:5, 95:8, 95:9, 95:15, 95:16, 95:20, 96:1, 96:2, 103:23, 104:18, 104:22, 104:24, 104:25, 105:3, 105:9, 105:12, 105:15, 105:16

**signage** <sup>[1]</sup> - 80:15  
**signed** <sup>[1]</sup> - 6:21  
**significant** <sup>[1]</sup> - 85:2  
**signings** <sup>[1]</sup> - 36:1  
**signs** <sup>[1]</sup> - 82:14  
**Silver** <sup>[1]</sup> - 99:14  
**similar** <sup>[5]</sup> - 31:10, 56:5, 90:11, 103:2, 103:4  
**similarly** <sup>[1]</sup> - 24:10  
**simplified** <sup>[1]</sup> - 81:25  
**simply** <sup>[4]</sup> - 75:1, 75:14, 81:5, 84:21  
**single** <sup>[2]</sup> - 15:5, 37:2  
**single-tenant** <sup>[1]</sup> - 15:5  
**sit** <sup>[3]</sup> - 17:16, 33:15, 58:3  
**SITAR** <sup>[1]</sup> - 3:17  
**Sitar** <sup>[4]</sup> - 13:16, 19:12, 121:11, 124:3  
**sitar** <sup>[2]</sup> - 3:18, 124:8  
**Sitar's** <sup>[1]</sup> - 82:22  
**Sitars** <sup>[3]</sup> - 124:4, 124:14, 124:18  
**site** <sup>[34]</sup> - 9:17, 9:19, 15:16, 15:20, 25:18, 63:9, 72:14, 73:3, 73:7, 73:18, 73:22, 74:8, 75:14, 75:25, 76:8, 80:10, 80:16, 80:17, 83:14, 86:4, 97:1, 100:9, 101:17, 101:19, 103:22, 103:24, 106:24, 107:18, 107:19, 109:22, 109:25, 111:9, 111:11, 111:12  
**Site** <sup>[2]</sup> - 5:8, 73:14  
**sitting** <sup>[1]</sup> - 39:2  
**situation** <sup>[4]</sup> - 16:9, 51:11, 93:16, 94:13  
**six** <sup>[3]</sup> - 7:15, 27:20, 75:10  
**Six** <sup>[2]</sup> - 95:18, 99:16  
**Six-and-a-half-feet** <sup>[1]</sup> - 95:18  
**size** <sup>[2]</sup> - 85:4, 105:14  
**skills** <sup>[3]</sup> - 40:3, 40:6  
**Skin** <sup>[1]</sup> - 99:5  
**slip** <sup>[1]</sup> - 72:11  
**small** <sup>[2]</sup> - 79:9, 85:8  
**Smile** <sup>[1]</sup> - 99:16  
**social** <sup>[12]</sup> - 10:2, 14:15, 17:4, 26:7, 34:23, 34:24, 36:6, 40:24, 41:1, 48:12, 60:5, 119:17  
**social-media-influencer** <sup>[2]</sup> - 17:4, 119:17

- society** [1] - 27:15  
**sold** [1] - 30:5  
**solving** [1] - 71:6  
**someone** [8] - 37:19, 54:11, 56:10, 60:10, 80:6, 89:4, 93:9, 124:12  
**Somerville** [1] - 70:10  
**sometimes** [5] - 29:25, 42:16, 53:15, 110:16, 117:12  
**somewhat** [3] - 73:24, 74:9, 80:10  
**son** [7] - 27:25, 28:5, 31:16, 32:8, 37:18, 58:11, 110:8  
**son's** [3] - 28:2, 28:9, 31:15  
**sorry** [3] - 75:19, 80:22, 91:17  
**sort** [2] - 72:10, 79:6  
**sought** [1] - 79:21  
**sounds** [2] - 36:8, 119:11  
**South** [1] - 74:16  
**south** [3] - 72:11, 74:10, 81:1  
**southerly** [1] - 74:13  
**southern** [1] - 72:12  
**southwesterly** [1] - 80:25  
**space** [7] - 48:16, 49:9, 53:19, 53:24, 90:3, 100:15, 100:24  
**spaces** [4] - 74:23, 75:7, 96:19, 106:24  
**Spanky** [1] - 119:3  
**special** [10] - 84:6, 84:9, 84:14, 84:16, 86:7, 86:14, 87:19, 113:22, 113:23, 114:15  
**Specialists** [1] - 99:6  
**specialize** [1] - 48:22  
**specialized** [1] - 90:7  
**specialty** [2] - 79:2, 80:6  
**specific** [4] - 89:10, 103:16, 104:14, 115:7  
**specifically** [3] - 19:16, 104:19, 109:11  
**specify** [1] - 61:9  
**speculation** [1] - 49:24  
**spent** [2] - 32:6, 64:13  
**Spero** [1] - 96:25  
**Sporting** [1] - 79:19  
**spot** [1] - 119:6  
**spouses** [1] - 58:5  
**square** [5] - 80:21, 85:6, 85:13, 85:20, 105:14  
**STACEY** [1] - 2:5  
**Stacey** [2] - 115:16, 126:10  
**staff** [3] - 44:24, 70:25, 79:4  
**STAFF** [1] - 2:12  
**stand** [2] - 112:13, 117:2  
**standard** [3] - 23:14, 30:3, 78:2  
**standards** [3] - 85:3, 87:25, 100:5  
**standing** [1] - 70:1  
**Stars** [3] - 17:4, 57:15  
**start** [4] - 17:24, 50:12, 71:8, 91:3  
**started** [10] - 7:13, 31:16, 31:22, 32:6, 32:11, 63:2, 86:16, 86:20, 123:9  
**state** [7] - 41:17, 45:20, 66:20, 69:6, 101:1, 101:4, 112:13  
**STATE** [1] - 1:2  
**State** [2] - 3:3, 131:4  
**statement** [5] - 12:3, 15:18, 19:3, 20:13  
**statements** [3] - 56:23, 67:12, 124:11  
**states** [1] - 126:12  
**stating** [3] - 46:21, 124:17, 126:7  
**statutes** [1] - 101:5  
**statutory** [2] - 87:18, 89:2  
**stay** [1] - 126:17  
**stays** [1] - 50:8  
**stellar** [1] - 40:2  
**stenographically** [1] - 131:11  
**STENOGRAPHICAL LY** [1] - 2:23  
**step** [2] - 11:17, 107:23  
**stepping** [1] - 71:5  
**STEVE** [1] - 2:2  
**stick** [1] - 125:24  
**sticking** [1] - 48:11  
**still** [11] - 19:7, 32:12, 52:16, 54:15, 63:8, 88:4, 119:7, 121:22, 123:11, 125:21, 126:23  
**stipulate** [1] - 16:15  
**stipulated** [1] - 19:6  
**stop** [1] - 123:5  
**store** [2] - 79:19, 120:6  
**stores** [1] - 29:12  
**stormy** [1] - 57:21  
**story's** [1] - 31:24  
**straight** [1] - 78:12  
**street** [5] - 5:10, 80:25, 101:15, 118:5, 118:10  
**Street** [1] - 81:18  
**street-view** [1] - 5:10  
**Street-view** [1] - 81:18  
**stretch** [1] - 92:11  
**strictly** [4] - 47:23, 48:4, 48:19, 66:21  
**striped** [1] - 75:7  
**structure** [1] - 12:16  
**struggling** [1] - 46:15  
**studio** [1] - 17:14  
**studios** [1] - 77:18  
**stuff** [9] - 36:3, 40:23, 42:21, 50:10, 50:11, 60:4, 60:6, 102:6, 116:6  
**styled** [1] - 12:24  
**subject** [12] - 71:9, 72:12, 72:22, 72:23, 73:1, 75:15, 76:8, 76:12, 76:23, 80:3, 97:13, 97:16  
**submission** [1] - 91:15  
**submit** [10] - 23:12, 23:16, 78:11, 79:13, 84:7, 84:14, 86:18, 87:3, 101:18, 103:1  
**submitted** [3] - 10:24, 11:8, 73:3  
**subpar** [1] - 41:8  
**subscribe** [3] - 91:9, 92:4, 94:2  
**Subsection** [1] - 86:21  
**subsection** [2] - 90:2, 90:12  
**substantial** [5] - 103:19, 103:20, 124:4, 124:13  
**substantially** [2] - 102:23, 102:24  
**success** [1] - 112:1  
**successful** [4] - 18:3, 32:13, 61:15, 112:1  
**sufficient** [1] - 90:3  
**suggest** [2] - 92:12, 95:11  
**suggesting** [2] - 82:24, 83:3  
**suggestion** [3] - 20:11, 90:15, 97:5  
**suitability** [3] - 86:4, 86:12, 86:13  
**summary** [1] - 77:21  
**summate** [2] - 104:4, 112:10  
**summation** [1] - 98:4  
**summons** [2] - 60:14, 60:20  
**Sunday** [4] - 43:14, 59:7, 59:9, 121:25  
**Sundays** [2] - 113:13, 114:5  
**superior** [1] - 78:24  
**supersede** [1] - 101:5  
**supplements** [1] - 97:2  
**support** [7] - 9:21, 25:20, 63:11, 98:9, 106:12, 126:23, 127:3  
**supported** [1] - 120:4  
**supporting** [1] - 29:5  
**suppressed** [1] - 78:19  
**suppressing** [1] - 103:21  
**surely** [1] - 107:7  
**surgery** [1] - 12:10  
**Surgery** [1] - 99:17  
**surrounded** [2] - 72:17, 76:13  
**surrounding** [4] - 73:21, 75:15, 76:8, 84:12  
**survey** [1] - 73:7  
**suspect** [2] - 72:6, 74:10  
**sustain** [1] - 89:10  
**swear** [3] - 24:21, 24:23, 69:10  
**sworn** [4] - 24:23, 25:10, 69:5, 131:7  
**system** [13] - 12:8, 12:16, 22:15, 22:16, 22:19, 22:22, 22:23, 23:2, 23:6, 23:10, 23:13, 75:22, 122:13
- 
- T**
- 
- table** [1] - 73:5  
**talks** [1] - 55:6  
**tall** [1] - 80:20  
**Team** [1] - 84:25  
**tear** [1] - 12:15  
**technically** [1] - 101:3  
**technician** [1] - 75:11  
**technicians** [3] - 44:23, 45:17, 110:2  
**techniques** [1] - 90:14  
**Teck** [1] - 99:10  
**teeth** [2] - 47:6, 47:9  
**Tel** [1] - 1:24  
**telecommute** [1] - 85:1  
**temporarily** [1] - 75:2  
**ten** [4] - 68:15, 98:15, 118:6, 118:9  
**Ten** [1] - 99:23  
**tenancy** [1] - 80:4  
**tenant** [19] - 5:9, 7:4, 8:10, 8:24, 13:22, 13:23, 14:7, 14:13, 15:5, 62:13, 76:17, 78:15, 80:2, 102:22, 121:13, 123:24, 124:2, 127:5  
**tenants** [3] - 21:25, 76:9, 99:24  
**tenants'** [1] - 8:8  
**terms** [10] - 35:22, 62:2, 77:11, 79:15, 79:23, 80:1, 84:13, 85:2, 86:25, 87:8  
**Terrace** [1] - 1:23  
**testified** [10] - 28:19, 45:9, 53:9, 61:11, 65:15, 69:15, 93:6, 100:19, 108:13, 123:3  
**testifies** [2] - 10:20, 20:6  
**testify** [2] - 99:1, 131:7  
**testifying** [3] - 8:14, 61:4, 82:20  
**testimony** [28] - 8:17, 10:15, 14:12, 19:25, 24:16, 24:24, 27:5, 28:10, 39:23, 44:5, 50:2, 53:7, 67:24, 68:3, 69:11, 70:18, 75:9, 89:8, 94:10, 95:6, 96:12, 96:13, 104:3, 104:7, 106:2, 116:8, 120:10  
**text** [1] - 55:5  
**THE** [160] - 25:23, 26:4, 26:10, 26:18, 26:22, 27:9, 27:18, 28:2, 28:17, 29:7, 29:9, 29:23, 30:7, 30:11, 30:23, 31:3, 31:5, 31:11, 31:14, 31:21, 32:2, 32:19, 32:24, 33:4, 33:7, 33:13, 33:19, 33:22, 34:2, 34:5, 34:9, 34:12, 34:15, 34:25, 35:4, 35:6, 35:10, 35:15, 35:19, 36:4, 38:17, 38:20, 39:4, 39:11, 39:16, 39:18, 40:14, 40:16, 42:14, 42:25, 43:4, 43:8, 43:15, 43:24, 44:12, 44:20, 44:25, 45:3, 45:7,



- 47:12, 47:17,  
47:24, 48:3, 48:5,  
48:15, 48:22, 49:4,  
49:8, 51:13, 51:15,  
51:18, 52:8, 52:11,  
52:20, 52:23, 53:1,  
53:13, 53:20,  
53:25, 54:3, 54:6,  
54:10, 55:23,  
55:25, 56:19,  
56:22, 57:1, 57:8,  
58:10, 58:18, 59:8,  
59:15, 61:6, 61:20,  
62:2, 62:6, 62:9,  
62:24, 63:2, 63:5,  
63:13, 63:17,  
63:21, 64:16,  
64:23, 66:18,  
69:25, 71:7, 71:12,  
71:16, 71:21,  
71:23, 72:5, 73:11,  
73:17, 75:19, 76:1,  
76:3, 76:6, 76:20,  
76:24, 77:6, 81:10,  
81:12, 81:15,  
81:21, 82:8, 82:21,  
83:21, 85:11,  
85:15, 85:24, 86:3,  
86:18, 87:22, 88:4,  
88:7, 88:12, 89:15,  
90:21, 90:24,  
91:11, 91:16, 97:6,  
98:13, 98:17,  
98:22, 100:3,  
100:23, 101:14,  
101:24, 102:7,  
102:14, 102:17,  
103:10, 103:13,  
107:13, 107:21,  
107:24, 108:10
- Therapy** [1] - 99:6
- they've** [3] - 6:10,  
6:12, 100:19
- third** [3] - 12:23, 26:5,  
84:18
- thorough** [1] - 83:23
- thoughts** [2] - 112:9,  
112:14
- three** [13] - 30:10,  
58:10, 58:16, 63:4,  
64:2, 71:7, 93:8,  
99:9, 100:4,  
108:22, 108:23,  
109:7, 125:17
- threw** [2] - 61:17,  
61:18
- throughout** [1] - 55:5
- Thursday** [2] -  
121:18, 121:19
- THURSDAY** [1] - 1:14
- tie** [1] - 117:18
- Tik** [4] - 16:22, 16:23,  
33:25, 35:13
- Tik-Tok** [4] - 16:22,  
16:23, 33:25, 35:13
- tilted** [1] - 18:16
- timeframe** [1] -  
122:22
- timepieces** [1] -  
27:21
- timers** [3] - 65:23,  
66:1, 66:17
- Tiny** [1] - 99:6
- to..** [1] - 128:24
- today** [3] - 64:12,  
78:1, 113:24
- today's** [1] - 93:10
- toes** [1] - 71:6
- together** [5] - 9:12,  
9:21, 25:20, 63:10,  
117:23
- Tok** [4] - 16:22,  
16:23, 33:25, 35:13
- tone** [1] - 73:20
- tonight** [7] - 24:24,  
61:14, 69:11, 70:6,  
81:7, 108:11, 111:7
- took** [3] - 11:17,  
11:24, 78:6
- top** [1] - 29:11
- Topel** [1] - 99:14
- total** [3] - 75:6,  
104:23, 104:24
- totally** [1] - 88:9
- Tots** [1] - 99:6
- tough** [1] - 59:24
- towards** [1] - 78:17
- tower** [2] - 73:25,  
74:21
- TOWN** [1] - 1:10
- town** [1] - 56:3
- towns** [3] - 30:14,  
56:7, 56:21
- TOWNSHIP** [1] - 1:1
- township** [4] - 30:7,  
57:25, 60:1, 126:8
- Township** [6] - 1:24,  
2:18, 2:20, 3:4,  
20:14, 20:15
- township's** [2] -  
60:22, 62:16
- trade** [1] - 34:21
- trading** [1] - 54:9
- traditional** [2] -  
79:20, 80:9
- traffic** [17] - 74:8,  
74:10, 74:15,  
77:21, 78:2, 78:3,  
78:9, 78:15, 78:18,  
86:20, 86:21,  
86:23, 91:20,  
91:24, 103:22,  
116:16, 118:14
- trail** [1] - 30:1
- transactions** [2] -  
45:11, 122:24
- transcribed** [1] - 9:3
- transcript** [5] - 6:11,  
6:17, 11:18, 17:25,  
131:10
- TRANSCRIPT** [1] -  
1:18
- transitioning** [1] -  
58:19
- translate** [1] - 64:4
- transparency** [3] -  
18:19, 19:16, 45:24
- transparent** [2] -  
39:10, 45:23
- transportation** [4] -  
89:14, 91:19,  
91:23, 92:1
- traveling** [1] - 81:1
- travelling** [1] - 96:22
- tree** [1] - 93:20
- trees** [1] - 89:23
- troubling** [2] - 46:5,  
47:4
- truck** [5] - 16:6,  
16:11, 28:6, 29:22,  
37:19
- true** [1] - 131:10
- truly** [1] - 58:6
- truth** [9] - 24:25, 25:1,  
69:12, 131:7, 131:8
- truthful** [2] - 37:6,  
37:9
- try** [3] - 18:17, 40:16,  
113:19
- trying** [3] - 29:19,  
33:8, 63:23
- tube** [2] - 12:8, 12:16
- tubing** [1] - 12:11
- Tuesday** [3] - 121:18,  
122:20, 123:18
- turn** [1] - 118:23
- turned** [3] - 22:2,  
32:11, 32:14
- turns** [1] - 30:22
- Two** [1] - 99:7
- two** [16] - 30:9, 30:10,  
30:11, 44:23,  
58:12, 63:3, 73:8,  
80:23, 116:9,  
118:18, 119:15,  
120:19, 120:20,  
120:24, 125:17
- Tyler** [14] - 28:2, 28:4,  
28:12, 31:15,  
31:16, 31:18, 39:3,  
39:7, 39:12, 39:15,  
41:2, 58:11,  
110:21, 113:18
- Tyler's** [1] - 110:13
- type** [5] - 35:8, 56:6,  
110:19, 119:7,  
119:17
- types** [2] - 17:4,  
98:20
- typical** [4] - 78:1,  
78:7, 78:9, 85:18
- typically** [1] - 79:13
- U**
- 
- ultimate** [1] - 82:22
- unacceptable** [1] -  
12:24
- unbecoming** [1] -  
13:6
- unchanged** [1] -  
72:25
- under** [8] - 25:10,  
25:11, 27:15,  
31:25, 80:21,  
86:21, 89:15, 94:2
- under-element** [1] -  
27:15
- underneath** [1] - 75:8
- understood** [6] -  
38:24, 40:14, 46:1,  
46:9, 105:17,  
106:11
- undeveloped** [1] -  
73:19
- undue** [1] - 86:22
- unique** [3] - 80:6,  
80:10, 103:16
- unite** [1] - 117:23
- unless** [1] - 84:8
- Unless** [1] - 107:22
- unmatched** [1] - 40:7
- unpopular** [1] - 129:3
- unprofessional** [1] -  
13:7
- unreasonableness**  
[1] - 84:15
- unusual** [2] - 72:10,  
101:19
- up** [43] - 7:8, 12:19,  
14:9, 14:17, 17:19,  
30:12, 30:21, 32:9,  
33:8, 33:16, 33:17,  
36:5, 38:21, 41:15,  
44:10, 49:2, 49:14,  
50:4, 52:25, 53:1,  
53:6, 58:24, 59:20,  
60:19, 67:16,  
67:18, 87:16, 89:1,  
93:15, 96:22,  
108:6, 109:23,  
112:24, 113:6,  
114:15, 117:7,  
117:11, 119:22,  
120:4, 120:14,  
123:5, 128:14,  
129:2
- usage** [2] - 27:8,  
27:10
- use-variance** [2] -  
19:24, 19:25
- uses** [23] - 8:24, 9:13,  
10:11, 25:15,  
25:16, 26:20,  
45:20, 46:3, 76:11,  
76:13, 77:7, 77:8,  
77:15, 78:10,  
78:13, 79:16, 80:6,
- 85:9, 88:12, 88:13,  
90:4, 103:2, 120:12
- usual** [1] - 43:4
- utilities** [2] - 107:9,  
107:10
- 
- V**
- 
- vacant** [2] - 84:17,  
120:9
- vague** [1] - 50:5
- valid** [1] - 19:15
- value** [2] - 41:20,  
121:15
- valued** [1] - 20:23
- Variance** [3] - 38:8,  
45:15, 125:16
- variance** [22] - 19:24,  
19:25, 36:20,  
60:25, 62:12, 68:3,  
69:1, 83:13, 83:22,  
84:5, 84:10, 87:18,  
93:16, 101:21,  
102:8, 102:23,  
103:14, 105:23,  
105:25, 106:3,  
106:4, 107:18
- variances** [1] - 107:4
- variety** [3] - 84:2,  
88:13, 90:4
- vascular** [2] - 12:10
- vasectomy** [1] - 12:9
- vault** [1] - 23:4
- vehicles** [3] - 75:3,  
78:4, 96:22
- vein** [1] - 53:7
- Verified** [4] - 34:12,  
34:13, 34:15, 35:17
- Verify** [1] - 34:23
- versa** [1] - 63:18
- versus** [1] - 58:17
- vice** [1] - 63:18
- Vice** [1] - 2:3
- VICE** [14] - 42:11,  
42:22, 43:2, 43:6,  
43:10, 43:19,  
43:25, 46:7, 113:3,  
113:7, 113:11,  
114:19, 115:11,  
123:11
- Vice-Chairman** [1] -  
2:3
- VICE-CHAIRMAN**  
[14] - 42:11, 42:22,  
43:2, 43:6, 43:10,  
43:19, 43:25, 46:7,  
113:3, 113:7,  
113:11, 114:19,  
115:11, 123:11
- vice-versa** [1] - 63:18
- video** [19] - 9:23,  
17:12, 25:25, 28:8,  
30:1, 37:11, 37:17,  
39:3, 62:22, 63:1,  
63:6, 63:14, 63:19,

64:13, 64:14,  
64:22, 110:20,  
111:2, 123:6  
**videoing** [2] - 44:7,  
47:10  
**videos** [12] - 16:4,  
16:14, 16:21,  
17:14, 27:25,  
28:14, 33:25,  
36:25, 65:20, 67:4,  
110:14  
**videotaped** [1] -  
33:24  
**view** [3] - 5:10, 80:25,  
81:18  
**viewed** [1] - 118:18  
**viral** [1] - 41:3  
**visit** [1] - 24:3  
**visual** [6] - 87:25,  
90:13, 91:3, 93:12,  
93:17, 94:16  
**voice** [1] - 34:20  
**volunteerism** [1] -  
126:6  
**volunteers** [1] - 58:3  
**Vookum** [17] - 31:13,  
31:14, 31:19,  
32:18, 34:10,  
34:11, 34:12,  
34:13, 34:15,  
34:23, 35:17,  
38:15, 38:18, 39:7,  
39:13, 39:15  
**vookum** [1] - 4:5  
**vote** [3] - 112:18,  
127:13, 129:2  
**votes** [3] - 125:17,  
125:18, 126:7  
**vouching** [1] - 67:13

---

## W

**wait** [2] - 14:15, 19:7  
**waiver** [1] - 105:22  
**waivers** [1] - 96:17  
**walk** [1] - 66:15  
**walking** [1] - 66:10  
**wall** [2] - 110:14,  
128:14  
**walls** [1] - 12:19  
**wants** [6] - 42:6,  
45:12, 104:6,  
113:2, 130:12  
**war** [1] - 71:6  
**warrant** [1] - 84:9  
**watch** [18] - 10:8,  
16:11, 26:14,  
28:21, 35:11,  
47:25, 48:16,  
50:22, 51:6, 61:25,  
62:21, 62:23,  
64:15, 64:17,  
83:14, 90:7,  
119:12, 120:6  
**watch-related** [1] -

61:25  
**watched** [1] - 28:1  
**watches** [30] - 9:20,  
9:25, 10:3, 25:19,  
26:1, 26:8, 28:5,  
28:7, 29:15, 30:5,  
31:1, 36:2, 37:18,  
43:5, 47:23, 48:2,  
48:3, 48:20, 48:23,  
49:22, 55:8, 55:15,  
55:18, 63:10,  
64:19, 64:20,  
64:25, 119:10,  
120:6  
**watching** [1] - 58:1  
**watchmaker** [1] -  
58:13  
**WaWa** [1] - 111:3  
**web** [1] - 35:5  
**webcam** [1] - 37:17  
**website** [3] - 32:18,  
32:20, 32:22  
**WECHSLER** [12] -  
2:8, 48:10, 48:19,  
49:1, 49:5, 49:10,  
59:16, 59:18,  
60:16, 116:23,  
117:6, 125:12  
**Wechsler** [3] - 48:9,  
116:22, 117:2  
**Wednesday** [3] -  
121:18, 122:20,  
123:18  
**week** [14] - 21:14,  
42:13, 43:13, 44:1,  
45:13, 52:15,  
52:22, 53:10,  
58:14, 108:19,  
108:24, 113:24,  
117:11, 123:20  
**weeks** [1] - 30:9  
**weigh** [1] - 60:24  
**weight** [1] - 112:17  
**Weiss** [6] - 6:9, 6:23,  
20:12, 38:14, 67:3,  
117:25  
**WEISS** [77] - 2:9,  
6:16, 15:21, 15:24,  
16:18, 16:23,  
16:25, 18:8, 18:12,  
18:15, 20:21,  
20:25, 30:4, 30:10,  
30:20, 30:24, 31:4,  
31:9, 31:13, 31:18,  
31:25, 32:17,  
32:21, 33:2, 33:6,  
33:11, 33:18,  
33:20, 33:25, 34:3,  
34:7, 34:10, 34:13,  
34:22, 35:1, 35:5,  
35:7, 35:11, 35:16,  
35:20, 38:22,  
38:25, 39:5, 39:14,  
39:17, 40:1, 40:15,  
42:5, 54:19, 55:10,

57:2, 57:9, 57:11,  
57:14, 57:20,  
57:23, 66:11,  
66:14, 66:22, 67:5,  
76:19, 76:21, 77:3,  
85:10, 85:12,  
97:20, 98:12,  
98:14, 98:18,  
98:23, 99:2, 99:25,  
111:2, 118:1,  
118:17, 119:3,  
125:1  
**Weiss's** [1] - 42:7  
**welcome** [5] - 7:7,  
13:15, 24:20,  
59:15, 69:2  
**welfare** [1] - 97:9  
**well-being** [1] - 89:18  
**west** [2] - 77:1, 77:9  
**westerly** [1] - 74:12  
**western** [2] - 72:12,  
73:18  
**whole** [7] - 12:16,  
24:25, 69:12, 86:1,  
118:4, 118:9, 131:8  
**wholesale** [3] - 9:19,  
63:9, 123:1  
**width** [1] - 100:14  
**window** [2] - 74:1,  
74:3  
**wish** [1] - 111:25  
**wishes** [2] - 10:14,  
74:18  
**WITNESS** [160] -  
25:23, 26:4, 26:10,  
26:18, 26:22, 27:9,  
27:18, 28:2, 28:17,  
29:7, 29:9, 29:23,  
30:7, 30:11, 30:23,  
31:3, 31:5, 31:11,  
31:14, 31:21, 32:2,  
32:19, 32:24, 33:4,  
33:7, 33:13, 33:19,  
33:22, 34:2, 34:5,  
34:9, 34:12, 34:15,  
34:25, 35:4, 35:6,  
35:10, 35:15,  
35:19, 36:4, 38:17,  
38:20, 39:4, 39:11,  
39:16, 39:18,  
40:14, 40:16,  
42:14, 42:25, 43:4,  
43:8, 43:15, 43:24,  
44:12, 44:20,  
44:25, 45:3, 45:7,  
47:12, 47:17,  
47:24, 48:3, 48:5,  
48:15, 48:22, 49:4,  
49:8, 51:13, 51:15,  
51:18, 52:8, 52:11,  
52:20, 52:23, 53:1,  
53:13, 53:20,  
53:25, 54:3, 54:6,  
54:10, 55:23,  
55:25, 56:19,

56:22, 57:1, 57:8,  
58:10, 58:18, 59:8,  
59:15, 61:6, 61:20,  
62:2, 62:6, 62:9,  
62:24, 63:2, 63:5,  
63:13, 63:17,  
63:21, 64:16,  
64:23, 66:18,  
69:25, 71:7, 71:12,  
71:16, 71:21,  
71:23, 72:5, 73:11,  
73:17, 75:19, 76:1,  
76:3, 76:6, 76:20,  
76:24, 77:6, 81:10,  
81:12, 81:15,  
81:21, 82:8, 82:21,  
83:21, 85:11,  
85:15, 85:24, 86:3,  
86:18, 87:22, 88:4,  
88:7, 88:12, 89:15,  
90:21, 90:24,  
91:11, 91:16, 97:6,  
98:13, 98:17,  
98:22, 100:3,  
100:23, 101:14,  
101:24, 102:7,  
102:14, 102:17,  
103:10, 103:13,  
107:13, 107:21,  
107:24, 108:10  
**witnesses** [1] - 131:7  
**WITNESSES** [1] - 4:3  
**Woman** [1] - 118:23  
**wonderful** [1] - 63:7  
**word** [5] - 39:22,  
57:19, 102:24,  
114:23, 123:16  
**work-from-home** [1]  
- 84:25  
**works** [1] - 97:3  
**world** [4] - 29:11,  
29:13, 29:16, 34:21  
**worry** [1] - 37:20  
**write** [1] - 27:22  
**written** [3] - 22:22,  
27:19, 51:19  
**wrote** [1] - 9:10

---

## Y

**yard** [6] - 72:18,  
72:21, 84:3,  
101:16, 101:17  
**year** [1] - 84:18  
**years** [13] - 7:15,  
31:16, 31:17, 41:1,  
52:13, 53:14,  
54:15, 62:24, 63:3,  
63:4, 70:3, 73:8,  
93:8  
**yellow** [1] - 72:8  
**yields** [1] - 75:8  
**York** [10] - 31:6,  
52:12, 52:13,  
52:16, 52:21,

54:13, 58:17,  
58:19, 59:3, 108:22  
**young** [1] - 7:13  
**YouTube** [9] - 15:13,  
16:21, 28:1, 28:9,  
30:1, 36:25, 37:11,  
37:17, 109:18  
**Yvonne** [1] - 99:20

---

## Z

**ZBE2401** [1] - 1:8  
**zone** [11] - 77:13,  
77:14, 78:10,  
78:14, 79:1, 79:16,  
87:5, 100:6,  
100:11, 103:17  
**ZONE** [1] - 1:7  
**Zoning** [1] - 2:18  
**zoning** [24] - 72:18,  
72:19, 73:5, 73:8,  
78:21, 85:3, 86:2,  
86:6, 86:10, 86:14,  
86:17, 86:19,  
87:14, 87:24, 88:3,  
88:5, 88:10, 88:15,  
88:23, 89:11,  
100:8, 102:25,  
116:6  
**ZONING** [10] - 1:1,  
104:13, 104:17,  
105:4, 105:8,  
105:17, 105:24,  
106:9, 111:19,  
111:22  
**Zoom** [1] - 84:25