

INCORPORATED VILLAGE OF OCEAN BEACH

FIRE ISLAND, NEW YORK

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ZONING BOARD OF APPEALS

PUBLIC HEARING

SPECIAL PERMIT APPLICATION NUMBER BP2022-057

-----x

June 3, 2023

11:08 a.m.

Boat House

Ocean Beach, New York

-----x

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

JOEL BURRIS, CHAIRMAN

KEVIN LOWRY, MEMBER

CONSTANTINE KARALIS, MEMBER

KENNETH GRAY, ESQ., VILLAGE ATTORNEY

D. Leigh Chapman
Court Reporter

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

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3 Steve Bertolino, Esq.
4 Attorney for the applicant
5 130 West Main Street
6 East Islip, New York 11730

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8 Glenn Graham
9 Architect for the applicant
10 256 Orinoco Drive
11 Brightwaters, New York 11718

12

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14 Also Present:

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16 Jonneigh Adrion, Village Clerk

17 Michael Mandarino, Building Inspector

18 Mitchell Pollack, Village Resident

19 David Scharf, Village Resident

20 David Lipsky, Village Resident

21 Matthew Virga, Village Resident

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1 CHAIRMAN BURRIS: It is Saturday, June the
2 3rd, at approximately 11:09, and I would like
3 to call to order the meeting of the Village of
4 Ocean Beach Zoning Board of Appeals.

5 Do we have a quorum present, Clerk?

6 MR. GRAY: I can take the poll.

7 Constantine Karalis?

8 MR. KARALIS: Here.

9 MR. GRAY: Kevin Lowry?

10 MEMBER LOWRY: Present.

11 MR. GRAY: Chairman Burris?

12 CHAIRMAN BURRIS: Present.

13 MR. GRAY: We have three members. We have
14 a quorum.

15 CHAIRMAN BURRIS: Is Jeremy Conway on the
16 phone?

17 MR. ARMENT: There's no one on Zoom right
18 now.

19 CHAIRMAN BURRIS: Should we call him? He
20 was planning on being here.

21 MR. GRAY: The meeting should have started
22 a half hour ago.

23 CHAIRMAN BURRIS: Okay. Let me see if I
24 can get him on the phone. We don't need him.

25 (Reading from his phone screen.)

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1 "Zoom meeting is invalid. I think you have
2 a quorum and you can continue without me. Zoom
3 says the meeting does not exist."

4 MR. ARMENT: It's the same one as all the
5 Village Board meetings.

6 CHAIRMAN BURRIS: "Feel free to call me if
7 you need me."

8 I call the meeting to order. Today's
9 meeting is to review Variance Application Number
10 BP2022-057. An application submitted by Kurt
11 Bohlsen, I hope I'm pronouncing the name
12 correctly, with regard to 74-76 Bungalow Walk,
13 Ocean Beach, New York. And it's regarding
14 several different code areas, 164-8 conformity
15 required, 164-22 living area requirements,
16 164-24 front yard requirements, and it involves
17 the lifting of a home and reconfiguration of
18 portions of the home.

19 We will have the applicant and/or his
20 agents go into detail as to what they're exactly
21 proposing. Before this meeting, we did have a
22 site visit where the members of the Board of
23 Appeals visited the site to get a better
24 understanding as to what is being requested.

25 We have before us plans, as well as plans

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1 that were submitted to the DEC for DEC approval
2 by the DEC of New York State and we have some
3 correspondence and other matters, which we will
4 read into the record and make note of.

5 MR. GRAY: Mr. Chairman, if I may, you had
6 mentioned that there was a site visit. At that
7 site visit, I want to indicate that the
8 applicant was present. His architect was
9 present. His Counsel was present, and I also
10 want to state that there were no deliberations
11 amongst the Board to take any action during
12 that site visit, correct?

13 CHAIRMAN BURRIS: Correct. And at on
14 point, one of the neighbors was present because
15 to understand the site impact, we went on a
16 neighbor's deck, actually, at the suggestion of
17 the applicant's architect and was consented to
18 by everybody. That's correct and I thank for
19 that clarification and welcome any more during
20 the rest of the hearing.

21 What I could do is start by reading in the
22 letters that we've received and some consents,
23 but I think what makes more sense is this is a
24 very complex matter and what I'd like to do is
25 speak with Counsel regarding potential legal

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1 issues and legal matters. So in order to do
2 that under the open meetings law, I believe that
3 I have to have an executive session to discuss
4 potential legal issues. So what I would like to
5 do is call an executive session. Which means
6 that all of the public members would be excused
7 and I apologize for doing it at this state, but
8 I think it's appropriate and we'll try to keep
9 the executive session short and I hope that
10 members of the public can find some place warm
11 and please not disperse because we want to go
12 back into the public hearing.

13 So I make a motion now to go into executive
14 session.

15 MR. GRAY: For the purposes of getting
16 legal advice.

17 CHAIRMAN BURRIS: For the purpose of legal
18 advice, which means, Ken, you are staying and
19 consulting with us. Do I have a second?

20 MEMBER LOWRY: Second.

21 CHAIRMAN BURRIS: Anybody opposed?
22 Constantine?

23 MEMBER KARALIS: No.

24 CHAIRMAN BURRIS: You're in favor? So if
25 everybody can please step out.

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1 MEMBER LOWRY: Wait, wait, wait. Don't
2 leave. Don't leave. We can use the office.

3 CHAIRMAN BURRIS: Oh, we can use the
4 office?

5 MEMBER LOWRY: Bunny says the office is
6 available.

7 (Executive session commenced.)

8 CHAIRMAN BURRIS: Okay. I make a motion
9 that we come out of executive session and
10 proceed with the hearing. I see there are a
11 good number of members of the public here
12 today, and I thank you for your attendance and
13 your patience.

14 I guess what I should do is begin with the
15 applicant or his agent making a brief statement
16 as to what the intention is and the plans are.
17 And, Ken, you're holding the papers. You want
18 me to read through some of the letters first?

19 MR. GRAY: I mean, we have them. They're
20 in evidence. They're part of the record. I
21 don't know if you want to read them.

22 CHAIRMAN BURRIS: I'd rather not have to.
23 There is a complete set of plans in the record.
24 There are letters from one neighbor and a
25 letter from the United States Department of the

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1 Interior, which is par for the course,
2 commenting on the property and basically saying
3 that they don't waive their right of
4 condemnation of the property. And that's
5 standard every time someone does some work on
6 properties in New York. I don't see a date on
7 this letter. Yes, it's dated 11/8/22, signed
8 by the Superintendent of the United States
9 Department of the Interior. I assume it's the
10 superintendent for this area, Lucy Grumarrow
11 (phonetic).

12 There is a denial letter written by the
13 Building Inspector for the Village of Ocean
14 Beach, which is a denial of the permit
15 requested. That was dated September 1st, 2022.

16 I have a copy of two stop work orders dated
17 August 14, 2020, and another one dated
18 February 8, 2010. That was when a prior owner
19 owned the property. I don't even know the
20 details of what they were for, but, obviously,
21 they were lifted and the work continued, I
22 suppose.

23 There is the application submitted by Glenn
24 Graham on behalf of the applicant. Actually,
25 Glenn Graham is listed here as the applicant.

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1 And I don't know whether I mentioned the letter
2 from the Department of the Interior. Does
3 somebody have a copy?

4 MR. GRAY: The DEC permit?

5 CHAIRMAN BURRIS: The DEC permit from New
6 York State Department of Environmental
7 Conservation, dated May 11, 2022, addressed to
8 Bungalow Beach Hut, LLC, care of Kurt Bohlsen.
9 I suppose that means that the property is in
10 the name of Bungalow Beach Hut, LLC, and Kurt
11 is probably the owner of the LLC. I see a nod
12 of acknowledgment of that.

13 The effective date of the permit is
14 5/11/2022 with an expiration date of 5/10/2027
15 signed by Sherry Archer (phonetic), 5/11/2022
16 and lists the issues of the permit and then, of
17 course, we have the plans that were submitted to
18 the DEC attached to the letter.

19 That being said, what I would like to do is
20 have the applicant and/or his agent make a brief
21 presentation as to what they're proposing and
22 maybe they can go into detail regarding the
23 ground floor, which I know the public is upset
24 about. The rumor going around is that this was
25 going to be a three-story house being elevated,

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1 and my understanding is that's not the case but
2 the applicant would be willing to make a quick
3 presentation?

4 MR. BERTOLINO: Yes, we can.

5 CHAIRMAN BURRIS: State your name and your
6 position.

7 MR. BERTOLINO: Yes, good morning, Mr.
8 Chairman and members of the Board. For the
9 applicant, Steve Bertolino, 130 West Main
10 Street, East Islip, New York.

11 Mr. Chairman, as you just stated, the
12 structure, the dwelling structure that currently
13 exists does have three stories. There's a small
14 lower level with a bath, a bedroom, some storage
15 room, and the utility room is down there. That
16 is being removed as part of this application,
17 just to be clear.

18 We're looking to raise the house up to
19 current FEMA levels so the entire structure will
20 come up about 18 inches to two feet, depending
21 on your perspective. We have currently, as
22 exists, a nonconforming structure that's 58.7
23 FAR or floor area ratio coverage. Village Code
24 only allows 45 percent. As proposed, we are
25 looking to go to 54.48 percent on the FAR. That

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1 would be a reduction of around four percent in
2 the FAR.

3 The applicant is Kurt Bohlsen from Bungalow
4 Beach, LLC. Those who may know the Bohlsen name
5 know that the Bohlsen Restaurant Group owns lots
6 of fine restaurants here on Long Island. They
7 maintain them in great fashion, and Kurt is
8 looking forward to bringing his house up to
9 those standards, which he hasn't been able to do
10 since he bought it, and I know that's one of the
11 complaints people have.

12 Kurt is also looking to purchase the
13 delivery lane and by purchasing the delivery
14 lane from the Village, we expect the proposed
15 FAR from 54.48 to go down even further to about
16 52 percent.

17 So, again, the Village Code allows for 45
18 percent. That is one of the variances before
19 this Board. So we're going from an existing
20 nonconforming 58.7 down to about 52 percent with
21 the purchase of the delivery lane. If this
22 Board saw fit to grant the application, I would
23 certainly agree that there would be a condition
24 that the delivery lane purchase be consummated.

25 The second part of the hearing has to do

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1 with a bathroom. The Village Code only allows
2 three bathrooms and currently, as exists, there
3 are four. We've submitted the plans with four
4 bathrooms being, I should say, one being
5 relocated from the basement level or lower level
6 up to the mid level and then two on the second
7 floor. So again, in short, we're looking to get
8 rid of the lower level, have two stories, raise
9 the house up to FEMA elevation, maintain four
10 bathrooms as they currently exist --

11 CHAIRMAN BURRIS: Counsel, may I correct
12 you? Is it not three and a half bathrooms that
13 you're looking to maintain?

14 MR. BERTOLINO: Three and a half bathrooms
15 that we're going to be maintaining, yes. I
16 don't think the, technically, I don't know if
17 the Village Code parses out three and a half.

18 CHAIRMAN BURRIS: They do not.

19 MR. BERTOLINO: But to be clear, it will
20 be three full bathrooms, meaning shower
21 facilities and one extra half bath, which just
22 means a commode and a sink. So three and a
23 half is the common parlance that people can
24 relate to.

25 Lastly, the call of the meeting for what

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1 the Board has in front of it would be the owner
2 is proposing to maintain the 11-foot setback
3 where Village Code requires 14 feet,
4 (inaudible). That being said, the Village Code
5 does allow that a preexisting, nonconforming
6 structure can stay in its same location as part
7 of the modification. Only those parts of the
8 modification that are new are required to
9 conform to the Village Code in those respects.
10 Because we're not technically changing the
11 first-floor footprint, we are not moving any
12 closer than what already exists. So our
13 interpretation of what is in front of this Board
14 today, again, is the FAR, floor area ratio. We
15 have the bathrooms, and we have the front yard
16 setback. That's it in a nutshell. I do have
17 more but if the Board wants to go back and
18 speak, you asked for a short statement. There
19 it is.

20 MEMBER LOWRY: Don't go away. I have a
21 question on the second-floor bedroom that's
22 coming out four feet. Is that four feet
23 footage, that's coming out four feet to the
24 east. Is that satisfying the 14-foot setback?

25 MR. BERTOLINO: Yes, it does.

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1 MEMBER KARALIS: Excuse me, 22.

2 MEMBER LOWRY: I'm sorry, 22.

3 MR. BERTOLINO: We exceed that setback.

4 We meet the code there, I should say. The
5 first floor, I'll say, juts out to the east to
6 the 11-foot as it exists. The second floor is
7 stepped inward, if you will.

8 CHAIRMAN BURRIS: Since we don't have a
9 model of the home, determining something as
10 complex as this, it would have been very
11 helpful. Let me clarify and make sure that
12 we're in agreement as to what the house will be
13 like.

14 You're proposing to remove the lower level,
15 which I'll call the basement level. That will
16 be completely eliminated. The house will be
17 lifted to FEMA level from the floorboards of the
18 joists of what now appears to be a second floor
19 or main floor above the basement level. So the
20 house would be elevated from that to FEMA
21 height. You will then have a two-story house,
22 not a three-story house, not a basement. There
23 will be two stories and then a roof deck on top
24 of the two stories, similar to the roof deck
25 that's there now but moved in location closer to

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1 the ocean further way from the neighbor. Is
2 that accurate?

3 MR. BERTOLINO: Mr. Chairman, that is a
4 good recitation of what's happening. I didn't
5 delve into that because you initially said a
6 short statement, but, yes, that's exactly
7 what's happening. Two-story house, maintaining
8 the roof deck at its current level. I should
9 say, we're not stepping it up higher than that.
10 The whole house will be raised two feet, so it
11 will become two feet higher but you won't be on
12 the roof and then climbing up higher than that.

13 CHAIRMAN BURRIS: Would you please restate
14 or repeat one thing? Two stories without a
15 basement?

16 MR. BERTOLINO: That's correct, two
17 stories with no basement. Then the roof deck,
18 yes, one of the neighbors to the north, who I
19 believe is present here today, had requested
20 that if we are modifying the second floor, we
21 now have the ability to move that roof deck to
22 the south as we reconstruct it and we will be
23 doing that and what that will do, it will take
24 the roof deck further from the adjoining
25 property owner to the north. That's an

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1 accommodation that we're making gladly so.

2 MR. GRAY: The modification we just
3 discussed, is that on the current plans?

4 MR. BERTOLINO: Yes, it is.

5 MR. GRAY: Thank you.

6 CHAIRMAN BURRIS: The other modification
7 that we discussed at the site visit at the
8 request of one of neighbors across Bungalow
9 Walk was that there's an extension for the
10 upstairs master bedroom coming out four feet
11 and you're taking out what's now an angle on
12 the roof and squaring it off. You would still
13 pull it out four feet but you would cut the
14 corner back two feet. I'm looking at the
15 architect. Am I saying that correctly?

16 MR. GRAHAM: Yes.

17 CHAIRMAN BURRIS: You want to say it in
18 architect's terms?

19 MR. GRAHAM: We would chamfer the corner
20 two feet to not obstruct the neighbor's view.

21 CHAIRMAN BURRIS: What does chamfer mean?

22 MR. GRAHAM: Just knocking off a corner.

23 MR. BERTOLINO: Turn around behind you.

24 You can see how this structure is kind of
25 octagon in shape. It's angling or catty

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1 cornering the corner of the structure.

2 CHAIRMAN BURRIS: This is the request that
3 you're making to the plans, if we vote on this
4 today which we hope to do, that you'll agree to
5 make that change in the actual plans. Along
6 with the change that there will not be stairs
7 going from what's the first floor, or the only
8 floor of the house going down to what would be
9 the pilings on the ground floor. There will
10 not be a stairway. The stairway will not be
11 there.

12 MR. BERTOLINO: Yes, that is correct.
13 When we eliminate that lower level basement,
14 that interior staircase that continues from the
15 third floor, main floor down to the basement is
16 now gone. As Mr. Lowery had asked before about
17 that four-foot, just to be clear, the bedroom
18 you're talking about chamfering the corner,
19 that is the same structure. That same area.
20 So we still meet the Village Code setback even
21 with the squared off corner, but as an
22 accommodation to the neighbor as requested, you
23 know, about an hour ago in the field, we hope
24 that would be a good compromise that the Board
25 saw fit, if it were to grant the application,

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1 there would be a contingency as well that we
2 would modify the plan to kind of emulate
3 what's there now, which also has an angulated
4 corner on that room.

5 MEMBER LOWRY: Okay. We still have to
6 hear from the neighbors on this issue.

7 CHAIRMAN BURRIS: We have to open the
8 meeting up to public comments. Is there
9 anything else that the applicant would like to
10 add now?

11 MR. BERTOLINO: I have a very long winded,
12 how should I say it? A legal argument to put
13 on the record. I don't know if that's
14 necessary at this point in time, but I would
15 like to reserve my right to do so later just so
16 we have a record on the applicant's side.

17 CHAIRMAN BURRIS: Noted.

18 MR. BERTOLINO: Thank you.

19 MEMBER LOWRY: Just so the public is aware
20 and I don't want to confuse you, there's not
21 going to be a basement. However, the Village
22 Code requires that the underpart of the house
23 be skirted and that's an aesthetic issue. So
24 there will be skirting on that underpart of the
25 house in compliance with the code as set forth.

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1 MR. BERTOLINO: Yes, but right now there
2 exists living space. The bathroom, bedrooms,
3 and utility, that's all going. The skirting
4 will exist as per the code, but that basement
5 level will be gone.

6 CHAIRMAN BURRIS: There will be no stairs
7 going to that lower level. So the only way
8 someone could access that is to walk under the
9 house from outside.

10 MR. BERTOLINO: Yes. You would have to
11 come out the main door facing Bungalow on the
12 east side. You have to walk down the walk
13 around the house, just like everyone else does
14 to access, you know, storage and whatever else
15 you have down there.

16 MEMBER KARALIS: I would like to say also
17 and remind that the code calls for sprinklering
18 and also allows for storage in that space under
19 the house. Storage and parking, I don't think
20 anyone will be parking there, but storage will
21 be allowed but the house would have to be
22 sprinklered.

23 MR. BERTOLINO: That's my understanding as
24 well, but I would defer to the architect on
25 that.

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1 CHAIRMAN BURRIS: The architect is
2 nodding. He understands. It has to be
3 sprinklered, you say?

4 MEMBER LOWRY: That's not our call.

5 CHAIRMAN BURRIS: That's not our concern.
6 That's not before us today.

7 Okay. And you reserved your right to make
8 a further comment.

9 MR. BERTOLINO: Thank you.

10 CHAIRMAN BURRIS: I'd like to now open the
11 meeting to the public. I see a lot of
12 neighbors here, and I appreciate your coming.
13 This is a little bit unusual in the sense that
14 the DEC permit was already obtained before our
15 viewing it, which makes it a little bit easier
16 for us, to be honest, because it's usually not
17 easy to get something from the State. So I'm
18 opening the floor up for any comments or
19 question from any neighbors. Is there anybody
20 who'd like to speak?

21 MR. POLLACK: I'm Mitch Pollack. I have a
22 question about how that nonconforming lower
23 level is going to disappear as the lawyer said.
24 What does that mean?

25 MR. GRAY: My understanding is that

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1 they're going to remove, in the lower level
2 right now, it's living space. There's a
3 bathroom, bedroom, that's all going to be
4 removed.

5 CHAIRMAN BURRIS: My understanding is more
6 than that. There's a bedroom and a bathroom.
7 That whole level is gone. The elevation of the
8 house is from the floorboards of the floor
9 above and there will be no living space, no
10 accessible space from the house. I suppose
11 there won't be a floor down there, other than
12 where you might store some bicycles; am I
13 correct on that?

14 MR. BERTOLINO: That is correct,
15 Mr. Chairman.

16 MR. POLLACK: When you say it's gone, what
17 does that mean?

18 MR. BERTOLINO: That means it no longer
19 exists. If this Board feels this application
20 is worthy of being granted and we get the
21 building permit from the Village, when we raise
22 the house, I'm sure you've seen houses raised
23 throughout the Village, when we raise the house
24 up to meet the new FEMA level, that whole lower
25 level that we're referring to as a basement is

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1 being demolished and not being replaced.

2 CHAIRMAN BURRIS: In fact, because that's
3 being demolished and not being replaced, and
4 please correct me if I'm wrong, the house,
5 actually, the height of the house will actually
6 be approximately two feet higher than the
7 height it's at now because that basement level
8 will be the level underneath the main floor.
9 Am I accurate on that?

10 MR. GRAHAM: That is correct. Unlike most
11 houses we've been doing in the Village, the
12 average goes up about five feet. This house
13 was already very close to FEMA, so overall,
14 it's only going up two feet.

15 MR. BERTOLINO: And that two feet that we
16 raise it up, Mr. Chairman, will keep us within
17 the height of the Village Code. To be clear,
18 we are not asking for a variance on height of
19 the top of the structure.

20 CHAIRMAN BURRIS: Your question is a very
21 good one because I know that I have been
22 approached by neighbors saying, wait a minute,
23 this is going to be a three-story house, et
24 cetera, and from what I'm seeing on the plans
25 and from what's being told to me by the

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1 applicant and their agents that's not the case.
2 It is gone, the lower level. So if you're
3 concerned about your view being obstructed
4 because there's going to be a house eight feet
5 higher, that's not the case.

6 MR. GRAHAM: Correct.

7 MR. POLLACK: Okay. Well, I just want to
8 say that the work as contemplated is going to
9 affect my view, even if it's only two feet
10 higher. If he moves that upstairs bedroom
11 closer to the walk, I will be suffering
12 diminishment in my view.

13 MR. GRAY: Thank you.

14 CHAIRMAN BURRIS: Thank you.

15 MR. GRAY: Any other members of the public
16 want to speak?

17 CHAIRMAN BURRIS: We're aware and we went
18 up to your roof with you today, which we thank
19 you for granting us access and one of the
20 things that the applicant has agreed to do,
21 informally at this point, is modify their plans
22 so it won't be a 90 degree angled corner to
23 increase the diminishment of your view to an
24 extent. Okay? Thank you.

25 Yes?

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1 MR. SCHARF: Good morning. My name is
2 Dave Scharf. I live at 72 Bungalow Walk. I'm
3 the neighbor immediately north to the house
4 that's in discussion today. I'm in support of
5 the application for a number of reasons.

6 First, as far as the setback from the
7 street and maintaining that setback, Mitch spoke
8 about the view, so by keeping the house the same
9 distance from the sidewalk it is, that will
10 preserve my view from the back of my house, the
11 ocean view. I will lose some view from my roof
12 deck, but if he were to say I'll get rid of the
13 lower level and I don't want to add the square
14 footage back, I just want to raise it to FEMA
15 level, I'll lose that view anyway. Personally,
16 I don't think it's unreasonable for him to want
17 to raise his house to a safer flood level and as
18 much as I like my view, I don't own that view.
19 I realize I have to give up a little bit of
20 that, but I appreciate the consideration he's
21 made to try to preserve the rest of my view.

22 By number one, not moving the house back,
23 which will destroy the view from the back of my
24 house and my neighbors.

25 Number two, he moved his roof top deck

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1 closer to the ocean.

2 And number three, he agreed to put a cable
3 railing or glass railing, which, again, will
4 allow me to see through that elevated structure.
5 So I appreciate those accommodations and those
6 are graciously made.

7 The house is obviously an eyesore now and
8 anything he does will be an improvement and I
9 know he's wanted to do that for a while. As his
10 neighbor, although I give up some of my view,
11 I'll appreciate living next to a really
12 beautiful house, which will ultimately increase
13 the value of my house. So I'm completely in
14 favor of the application. Thank you.

15 CHAIRMAN BURRIS: Thank you.

16 Anybody else would like to make a comment?

17 MR. LIPSKI: Dave Lipski. I'm not a
18 neighbor. I'm on 226 Wilmot. I'm just asking
19 whether the architectural plans are unchanged
20 from 5/11/22? You mentioned the date, which is
21 the date of the DEC permit.

22 CHAIRMAN BURRIS: The plans we're talking
23 about are going to change a little bit but not
24 substantially that the architect has to redraft
25 the plans. Whether or not that means he has to

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1 go to the DEC and submit the modified plans, I
2 don't know. Looking at the DEC application, it
3 was pretty clear that it was the footprint that
4 they were accepting and, therefore, the
5 footprint didn't change, I think the same
6 consent, but I'm not --

7 MR. LIPSKI: I don't see that on the
8 permit. The permit essentially says, "raise
9 and renovate existing residence and decks.
10 Construct new spiral staircase. Revegetate
11 area in conformance with the attached plans."
12 Stamped as DEC approved on 5/11/2022.

13 MR. GRAY: The plans that we have are
14 dated April 7, 2021, and those are the ones I
15 believe submitted to the DEC. But now based
16 upon if the applicant is agreeing to those two
17 modifications that was discussed, he'll have to
18 modify plans and submit plans that will have to
19 be approved by the Building Department to
20 determine that they're consistent with whatever
21 conditions are going to be imposed here.

22 CHAIRMAN BURRIS: In other words, they may
23 have to resubmit plans to the DEC --

24 MR. BERTOLINO: If I may, my understanding
25 is DEC goes by footprint and the lot coverage.

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1 They're not looking for the angle and design.
2 I don't believe we'll have to resubmit to DEC.
3 I just want to be clear on that.

4 CHAIRMAN BURRIS: When we vote on this,
5 our vote is going to be subject to approval of
6 the DEC, whatever DEC requires. We can't
7 supercede DEC requirements, and it wouldn't
8 have been strange to me if they had come to us
9 and then gone to the DEC, but I'm glad they did
10 it this way. So they're going to have to make
11 sure that they comply with DEC.

12 MR. LIPSKI: The second question --

13 CHAIRMAN BURRIS: Let me ask Counsel; am I
14 correct?

15 MR. GRAY: Yeah.

16 MR. LIPSKI: The plans that I saw look
17 like they were putting in pavers on the
18 setback, and I think since they're buying the
19 delivery lane maybe there will be more pavers.
20 That's not revegetating the landscape. In
21 fact, that's sort of not helpful for dune
22 control. I think they need to put vegetation
23 in on the existing land.

24 CHAIRMAN BURRIS: I believe they have a
25 vegetation plan --

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1 MR. GRAHAM: If I may, we are removing a
2 large deck on the west side of the lot that is
3 going to be fully revegetated. I think you
4 were walking on it with us this morning. So
5 yeah, the overall lot coverage was also reduced
6 to comply with the request of the DEC. The DEC
7 is trying to get us to mitigate any impact on
8 the dune. If we could move the house further
9 north, they would have made us do that, but we
10 are removing a deck that you cannot see from
11 the street. That's on the west side, if I had
12 to guess, about maybe 300 square feet and that
13 will all be revegetated. The pavers that you
14 suggest are just getting entrance to that
15 storage level.

16 MEMBER KARALIS: The code provides for
17 four-foot wide passageway pavers in the
18 setback, so in this case it shows that the
19 width of the pavers as shown on the site plan
20 is eight feet. The question is whether we
21 should approve a four-foot passageway and then
22 outside excluding the eight feet of the setback
23 or approve the four feet inside the setback and
24 then another four feet on the setback side.
25 Let me show you.

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1 (Board members hold inaudible discussion.)

2 MR. GRAY: Gentlemen, if I may, I don't
3 believe that survey includes the four feet of
4 the delivery lane that he's contemplating
5 purchasing.

6 (Further discussion among Board members.)

7 BUILDING INSPECTOR MANDARINO: I would
8 never approve an eight-foot paver walkway.
9 Those plans weren't approved for that purpose.
10 That's not the code. There's a formula for
11 pavers in the setbacks which hasn't been even
12 addressed yet.

13 MR. LIPSKI: One last question. I
14 recognize that this is a substantial
15 improvement over what exists right now. But at
16 what point, it also seems like it's a
17 substantial renovation and I thought under our
18 code a substantial renovation requires
19 achieving the FAR that you were supposed to
20 have achieved in the past. So I recognize that
21 they are reducing the floor to area ratio with
22 the current project, but could they go further
23 and actually achieve the FAR ratio by maybe not
24 putting in a hot tub or whatever?

25 MEMBER LOWRY: Let the Building Inspector

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1 respond to that.

2 BUILDING INSPECTOR MANDARINO: Any
3 reference to substantial renovations does not
4 trigger back to a 45 percent FAR. What a
5 substantial renovation triggers in our code is
6 relative to fire safety and second story
7 egress. So there's nothing about decreasing
8 the FAR because of substantial renovation. If
9 you have a nonconforming FAR and you don't
10 approve it, you're allowed to keep it. In
11 this case they're decreasing it. So there's
12 nothing -- what you're saying is it's not in
13 our code.

14 MR. LIPSKI: That's why I am questioning
15 it.

16 CHAIRMAN BURRIS: Thank you very much.
17 Anybody else from the public?

18 MR. VIRGA: I'm Matt Virga, 70 Bungalow,
19 so two north of the applicant and my wife,
20 Michell.

21 I'm not an architect, so I'm not exactly
22 sure how to read the plans but I'm curious if
23 there's any part of the second floor that pushes
24 to the west?

25 CHAIRMAN BURRIS: That's a very good

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1 point. Pushes to the west?

2 MR. VIRGA: Yeah.

3 CHAIRMAN BURRIS: No.

4 MR. GRAHAM: I can answer that. The only
5 thing pushing to the west is the required
6 egress staircase that the Village requires.

7 MR. VIRGA: Down low?

8 MR. GRAHAM: It's a staircase from the
9 roof deck down to grade --

10 BUILDING INSPECTOR MANDARINO: The
11 southwest corner.

12 CHAIRMAN BURRIS: You're talking about
13 west being closer to your house.

14 MR. VIRGA: Not exactly. West being,
15 spoiling the limited view that I have that's
16 between David's house back here to the ocean.

17 MR. GRAHAM: The spiral staircase required
18 by code, that's it. We're not putting anything
19 further. In fact, there's a second floor
20 balcony on that side that's coming off.

21 MR. VIRGA: Is there any scenario where
22 that could happen?

23 CHAIRMAN BURRIS: Well, could happen being
24 something built that's not approved in the
25 plans?

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1 MR. VIRGA: As of today, the way it looks,
2 it's not going to push to the west. Is there
3 any scenario where this gets rejected and then
4 they come back and say we're going to put this
5 thing much further.

6 CHAIRMAN BURRIS: If this gets rejected,
7 they would have to resubmit.

8 MR. VIRGA: And then we go through the
9 process again.

10 MR. GRAHAM: We're maintaining a 16.1
11 setback when only an eight-foot is required.
12 So without a variance, we could go out another
13 eight feet, but we have no intention of going
14 further than that.

15 MR. VIRGA: I like that answer. I'm good
16 with that answer.

17 CHAIRMAN BURRIS: We went up to the roof.
18 You may have seen us today looking at the house
19 and we saw that the added increases, the
20 modifications on the second floor, which would
21 become the first floor, were basically pushing
22 the house out towards the beach. It wasn't
23 really visible. Now I didn't take into account
24 that maybe you had views from the rear of your
25 house.

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1 MR. VIRGA: Yeah, I do. From our back
2 deck looking towards the water.

3 CHAIRMAN BURRIS: I guess that would be
4 the staircase --

5 MR. BERTOLINO: But that should actually
6 improve when we take off the existing west side
7 deck that's there.

8 MR. VIRGA: I saw that on the plans.

9 CHAIRMAN BURRIS: Is that an open
10 staircase? Is it open or is it closed?

11 MR. GRAHAM: We wanted to enclose it
12 because the spiral staircase is not too pretty.

13 CHAIRMAN BURRIS: What's the --

14 MR. GRAHAM: Five-foot.

15 CHAIRMAN BURRIS: You make a five-foot
16 wide staircase?

17 MR. GRAHAM: That's the minimum by code.
18 Believe me, Article 6 that this Village adopted
19 four years ago is costing every homeowner here
20 sprinklers, skirting, and staircases to the
21 tune of \$100,000.

22 CHAIRMAN BURRIS: When you say five feet,
23 does that mean ten feet in total?

24 MR. GRAHAM: No, no, five feet diameter.

25 CHAIRMAN BURRIS: So it's two and a half

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1 feet from the center pole.

2 MR. GRAHAM: That's the minimum required
3 to meet code.

4 CHAIRMAN BURRIS: Two and a half feet on
5 either side. Let me understand the geometry.

6 (Board members hold inaudible discussion.)

7 MEMBER KARALIS: Mr. Chairman, I would
8 like to --

9 (More Board member discussion.)

10 MR. VIRGA: No further questions, thank
11 you.

12 CHAIRMAN BURRIS: Thank you very much.

13 MR. VIRGA: You have my support.

14 CHAIRMAN BURRIS: Is there anybody else
15 from the public?

16 MR. POLLACK: One more question.

17 CHAIRMAN BURRIS: Yes.

18 MR. POLLACK: When you adjust the plan for
19 chamfering the second floor bedroom, will that
20 affect the roof deck?

21 MR. GRAHAM: No.

22 MR. POLLACK: The roof deck doesn't come
23 out --

24 MR. GRAHAM: The roof deck should
25 accommodate the (inaudible) to the neighbors to

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1 the left. It won't impact your view. It's
2 actually going to be (inaudible).

3 MR. POLLACK: Which direction?

4 MR. GRAHAM: Well, it's going to go
5 slightly further south but not any further than
6 that chamfer we talked about.

7 MR. POLLACK: So it will follow the edge
8 of the --

9 MR. GRAHAM: Yeah, it will still be set
10 back.

11 CHAIRMAN BURRIS: The roof deck is the
12 roof of the second story where it is now. The
13 corner that you're talking about cutting off is
14 the roof of the first story, correct?

15 MR. GRAHAM: Yeah, which is the second
16 story.

17 CHAIRMAN BURRIS: Which is the?

18 MR. GRAHAM: It's the roof which creates
19 the second story of the house, the master
20 bedroom level.

21 MEMBER LOWRY: That is the second story.
22 It's the same height as the roof deck, but the
23 roof deck is not going to come to the east at
24 all. It's just going to go south.

25 MR. GRAHAM: It will not be on that

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1 portion of that chamfer.

2 MR. SCHARF: Can I ask just one more
3 question? Where the mechanicals are going to
4 be located? As it is now, the condenser units
5 are on the roof. What is now the roof of the
6 main floor of the house. They're not near our
7 bedroom. Where are they going to be located
8 after the reconstruction?

9 MR. GRAHAM: I had spoken to the Scharfs
10 prior to the hearing to explain the project and
11 we're going to do whatever we can to impact the
12 noise from any of the mechanical spaces and
13 also insulate them if we have to keep them on
14 the roof so --

15 CHAIRMAN BURRIS: You're probably going to
16 have increased air-conditioning system. Is
17 there some way, I don't know that there is,
18 where you could put the mechanicals under the
19 house? I don't know what code is for that.

20 MR. GRAHAM: No, but we are making
21 mechanical room inside. Just the condensers
22 will be out. We're going to put screening and
23 insulation on them so they're not noisy to
24 anybody.

25 CHAIRMAN BURRIS: Is that additional area

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1 that's not shown on the plan?

2 MR. GRAHAM: No, no, it wouldn't be
3 enclosed. It's going to be shielded. We can't
4 enclose it.

5 CHAIRMAN BURRIS: Where is that located?

6 MR. GRAHAM: We haven't finished that part
7 of the mechanical design, but we're gonna make
8 sure it's as far away from any neighbor as
9 possible and shielded.

10 MR. BERTOLINO: And it will meet code; is
11 that correct?

12 MR. GRAY: There was one more question.
13 Gentleman in the back, did you have a question?
14 I thought I saw your hand up.

15 MR. SCHARF: I'm here looking at it on the
16 roof now, what's the roof of the first floor.
17 Some of that space is going to be taken up by
18 the expansion of the bedroom. That's why I
19 wanted to know if those mechanicals can be
20 located up in that area, away from our bedroom.

21 CHAIRMAN BURRIS: Will you agree to locate
22 the mechanicals away from the northerly lot
23 line and away from the easterly lot line to the
24 extent possible?

25 MR. GRAHAM: Yes. We don't want to

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1 interfere with neighbors in the west either.

2 So we'll put them in a conforming location that
3 meets code.

4 CHAIRMAN BURRIS: Well, conforming isn't
5 the question. Will you agree to keep them away
6 from the Bungalow Walk and from the northerly
7 lot line?

8 MR. GRAHAM: Yes, we will.

9 MR. POLLACK: Do they have to be located
10 on the roof?

11 MR. GRAHAM: No. We can hang them on the
12 wall depending on the type of system, but I
13 don't want to encroach on the setbacks and
14 putting them on the roof, they would be
15 shielded from your side anyway, hidden, because
16 they will be behind the structure. If we put
17 them on the side, they will be closer to the
18 alternator, so it makes sense to keep them on
19 the roof and just shield the noise.

20 CHAIRMAN BURRIS: You're buying the
21 delivery lane.

22 MR. GRAHAM: Yeah.

23 CHAIRMAN BURRIS: So if you're buying the
24 delivery lane, you hang them from --

25 MR. GRAHAM: Doesn't change the setbacks.

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1 CHAIRMAN BURRIS: Should they grab the
2 one- foot variance and hang them on that side?
3 Would that work for you?

4 MR. GRAHAM: The only impacted neighbors
5 are the Falcos (phonetic) and they're not here.
6 They would be the most impacted. I think it
7 makes sense to keep them on the flat portion of
8 the roof and to clarify, the system will
9 probably be smaller because we're decreasing
10 the overall size of the house.

11 CHAIRMAN BURRIS: Are we talking about
12 split units?

13 MR. GRAHAM: No, this is going to be a
14 traditional ducted system. There will be two.
15 It's going to be only half of the roof to
16 maintain the second floor. The lower level
17 will be at the first-floor level. We're not
18 just putting two big units up on the roof.
19 It's going to be half the house on the roof.

20 CHAIRMAN BURRIS: I have to defer to the
21 building inspector for this.

22 BUILDING INSPECTOR MANDARINO: We'll make
23 sure it's in the right place. We always find
24 combinations that work. We haven't come upon
25 an incident where we didn't.

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1 CHAIRMAN BURRIS: And you'll do your best
2 to minimize the air-conditioning --

3 MR. GRAHAM: And I think today's systems
4 are a lot better than ones from 1980.

5 BUILDING INSPECTOR MANDARINO: They're not
6 that, we'll have them screened as much as we
7 can.

8 CHAIRMAN BURRIS: I don't think it's the
9 screening that Mitch is objecting to. I think
10 it's the noise to be honest with you. I don't
11 think Mitch has to worry as much as the Scharfs
12 have to worry.

13 MR. GRAHAM: The screening would deflect
14 the noise away now.

15 MR. POLLACK: Put them on the ground floor
16 on pads.

17 MR. GRAHAM: That have to be above FEMA.

18 MR. POLLACK: Put them on, like, I have
19 them on a table that's five feet high.

20 MR. GRAHAM: We're willing to accommodate
21 everybody. If there's a place that conforms,
22 away from it, keeping it off the roof, we'll do
23 that.

24 CHAIRMAN BURRIS: If you decide that you
25 need it in a place where a variance would be

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1 required, come back to us for it if it's best
2 in that place. We'll work with you. We want
3 to protect both the applicant and the
4 neighbors.

5 MR. GRAHAM: We do have, there's 16 feet,
6 sideways setback on the west side. That would
7 be the furthestest away from all the neighbors,
8 still conform, and I can put them in that
9 space. No variance needed. Does that sound --

10 MR. GRAY: Any other questions from the
11 public?

12 MR. GRAHAM: Southwest.

13 MR. POLLACK: Are you committed to do that
14 today?

15 MR. GRAHAM: Yeah. We're here with you.
16 We just have to make sure it can be done.

17 CHAIRMAN BURRIS: We will add in the
18 resolution that they'll minimize the rest of
19 the neighbors with the relocation of the
20 systems. They'll do their best to minimize.

21 With that being said, if there are no other
22 comments from the floor, I would like to close
23 the, not close the meeting, but close the public
24 hearing. I would like to make a motion to vote
25 on this matter.

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1 The motion would be to approve the variance
2 requested with the following conditions:

3 Number one, that the bathrooms in the new
4 structure be limited to three and one-half
5 bathrooms, being defined as a full bathroom,
6 which includes a commode, sinks, and a
7 shower/tub facility and a half bath being
8 limited to a commode and a sink. So we would
9 have three and one-half bathrooms approved in
10 the structure as indicated on the plans, not
11 four, which wasn't indicated on the plans
12 anyway.

13 Next is that there be no access stairway,
14 internal access from the first floor of the
15 house to the area below the house, which is
16 where the pilings go into the sand. That area
17 may be skirted but will not have direct access
18 via a stairway or other mechanism from the first
19 floor of the house.

20 Third, that the plans be modified so as to
21 cut a corner off of the --

22 MR. GRAY: East side second-floor bedroom.

23 CHAIRMAN BURRIS: The extension of the
24 east side second-floor bedroom; is that
25 correct?

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1 MR. BERTOLINO: That's correct.

2 CHAIRMAN BURRIS: Okay. And that will be
3 at least a two-foot -- what was the term you
4 used?

5 MR. GRAHAM: Chamfer.

6 CHAIRMAN BURRIS: Chamfer.

7 Next is that the ground floor, the sand
8 level will be left sand, will not have a floor
9 built on it with the exception of perhaps a
10 platform for bicycles. Okay.

11 Next is that the applicant agrees to use
12 their reasonable best efforts, I use the words
13 "best efforts" so Steve can light up his ears.
14 To place any mechanical systems in a manner that
15 will cause the least reasonable interference to
16 the neighbors and will work with the building
17 inspector to come up with a suitable location
18 and solution for placement of the mechanical
19 systems. Is that --

20 MEMBER KARALIS: One more thing. They
21 presently show an eight-foot wide --

22 (Board members hold inaudible discussion.)

23 CHAIRMAN BURRIS: Okay. And that although
24 the plans indicate pavers from Bungalow Walk
25 heading, I guess it's east.

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1 MR. GRAY: West.

2 CHAIRMAN BURRIS: Heading west of being
3 eight feet wide that the pavers will not exceed
4 four feet in width and will be located abutting
5 the house side rather than the property line
6 side.

7 MEMBER KARALIS: Maintaining the
8 eight-foot setback.

9 CHAIRMAN BURRIS: Well, the eight-foot
10 setback is the house. That there be no more
11 than four feet in width, the walk paver way.
12 Okay.

13 Although it's not an artfully designed
14 motion, I would like to make that motion.

15 MR. GRAY: Do you want to make a condition
16 that they purchase the delivery lane?

17 CHAIRMAN BURRIS: I thought that was done.

18 CLERK ADRION: It is.

19 MR. GRAY: They purchased it already?

20 CLERK ADRION: They did it already.

21 MR. GRAY: Okay. Thank you.

22 CHAIRMAN BURRIS: Can we vote upon that
23 motion?

24 MEMBER LOWRY: I second it.

25 CHAIRMAN BURRIS: There's a second on the

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1 motion.

2 MR. GRAY: All in favor?

3 ALL MEMBERS: Aye.

4 CHAIRMAN BURRIS: Motion approved.

5 Variance granted with conditions specified,
6 which all have been agreed to, and I believe
7 worked out and agreed to with the consent and
8 approval of the applicant, his Counsel, and the
9 neighbors.

10 MR. GRAY: Motion to close the meeting.

11 CHAIRMAN BURRIS: Motion to close the
12 meeting.

13 MEMBER LOWRY: Second.

14 MR. GRAY: All in favor?

15 ALL MEMBERS: Aye.

16 CHAIRMAN BURRIS: I want to thank
17 everybody for coming and working out things so
18 that everybody is satisfied.

19 (Time Noted: 12:14 p.m.)

20

21

22

23

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25

CERTIFICATION

I, D. Leigh Chapman, a Notary Public in
and for the State of New York, do hereby certify:

THAT the forgoing is a true and accurate
transcript of my stenographic notes.

IN WITNESS WHEREOF, I have hereunto set my
hand this 5th day of June, 2023.

D. LEIGH CHAPMAN

ALL MEMBERS: [2] 45/3 45/15
BUILDING INSPECTOR MANDARINO:
[5] 29/7 30/2 31/10 39/22 40/5
CHAIRMAN BURRIS: [85]
CLERK ADRION: [2] 44/18 44/20
MEMBER KARALIS: [7] 6/23 14/1 19/16
 28/16 34/7 43/20 44/7
MEMBER LOWRY: [13] 3/10 6/20 7/1 7/5
 13/20 14/2 18/5 18/19 20/4 29/25 35/21 44/24
 45/13
MR. ARMENT: [2] 3/17 4/4
MR. BERTOLINO: [24] 10/4 10/7 12/14
 12/19 13/25 14/3 15/3 15/16 16/4 16/23 17/12
 18/11 18/18 19/1 19/10 19/23 20/9 21/14
 21/18 22/15 26/24 33/5 37/10 43/1
MR. GRAHAM: [41] 16/16 16/19 16/22
 22/10 23/6 28/1 31/4 31/8 31/17 32/10 33/11
 33/14 33/17 33/24 34/2 34/21 34/24 35/4 35/9
 35/15 35/18 35/25 36/9 36/20 37/2 37/6 37/25
 38/8 38/11 38/22 38/25 39/4 39/13 40/3 40/13
 40/17 40/20 41/5 41/12 41/15 43/5
MR. GRAY: [27] 3/6 3/9 3/11 3/13 3/21 5/5
 6/15 7/19 9/4 16/2 16/5 20/25 23/13 23/15
 26/13 27/15 29/2 37/12 41/10 42/22 44/1
 44/15 44/19 44/21 45/2 45/10 45/14
MR. KARALIS: [1] 3/8
MR. LIPSKI: [6] 25/17 26/7 27/12 27/16
 29/13 30/14
MR. POLLACK: [12] 20/21 21/16 23/7
 34/16 34/18 34/22 35/3 35/7 38/9 40/15 40/18
 41/13
MR. SCHARF: [3] 24/1 36/2 37/15
MR. VIRGA: [12] 30/18 31/2 31/7 31/14
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11:08 [1] 1/9
11:09 [1] 3/2
12:14 [1] 45/19
130 [2] 2/4 10/9
14 [1] 8/17
14 feet [1] 13/3
14-foot [1] 13/24
16 [1] 41/5
16.1 [1] 32/10
164-22 [1] 4/15
164-24 [1] 4/16
164-8 [1] 4/14
18 inches [1] 10/20
1980 [1] 40/4
1st [1] 8/15

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2010 [1] 8/18
2020 [1] 8/17
2021 [1] 26/14
2022 [5] 8/15 9/7 9/14 9/15 26/12
2023 [2] 1/9 46/11
2027 [1] 9/14

22 [5] 4/15 8/7 14/1 14/2 25/20
226 [1] 25/18
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256 [1] 2/6

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300 [1] 28/12
3rd [1] 3/2

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45 percent [2] 10/24 30/4

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52 percent [2] 11/16 11/20
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54.48 percent [1] 10/25
58.7 [2] 10/22 11/20
5th [1] 46/11

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70 [1] 30/18
72 [1] 24/2
74-76 [1] 4/12
76 [1] 4/12

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90 [1] 23/22

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a.m [1] 1/9
ability [1] 15/21
able [1] 11/9
about [18] 9/24 10/20 11/15 11/20 17/16
 17/18 17/23 20/22 22/12 23/3 24/8 25/23
 28/12 30/7 31/12 35/6 35/13 39/11
above [3] 14/19 21/9 40/17
abutting [1] 44/4
accepting [1] 26/4
access [6] 19/8 19/14 23/19 42/13 42/14 42/17
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accommodation [2] 16/1 17/22
accommodations [1] 25/5
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achieve [1] 29/23
achieved [1] 29/20
achieving [1] 29/19
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additional [1] 36/25
addressed [2] 9/7 29/12
adjoining [1] 15/24
adjust [1] 34/18
adopted [1] 33/18
Adrion [1] 2/12
advice [2] 6/16 6/18
aesthetic [1] 18/23
affect [2] 23/9 34/20
after [1] 36/8
again [5] 11/17 12/7 13/14 25/3 32/9
agent [2] 7/15 9/20
agents [2] 4/20 23/1
ago [3] 3/22 17/23 33/19
agree [4] 11/23 17/4 37/21 38/5
agreed [4] 23/20 25/2 45/6 45/7

agreeing [1] 26/16
agreement [1] 14/12
agrees [1] 43/11
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