

**In the Matter Of:**

IN RE: THOMAS McGEOUGH

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**HEARING**

*November 22, 2022*

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LEGAL | MEDIA | EXPERTS

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STATE OF NORTH CAROLINA  
TOWN OF KURE BEACH  
BOARD OF ADJUSTMENT

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IN RE: THOMAS McGEOUGH

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Town Hall  
Kure Beach, North Carolina  
Tuesday, November 22, 2022

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REPORTER: KYLIE FLEMING  
Professional Court Reporter  
Notary Public

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1     A P P E A R A N C E S :

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   THE BOARD:

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4                   HARRY HUMPHRIES, Chairperson  
   Kurt Bartley  
5                   Bryant Bass  
   Randy McNeely  
6                   John Nadeau

7     James Eldridge, Esq., Town Attorney

8     Mandy Sanders, Town Clerk

9     Beth Chase, Deputy Town Clerk

10

11                   I N D E X T O W I T N E S S E S

12

   Mandy Sanders.....11

13

   Thomas McGeough.....12

14

   Bethany White.....23

15

16

17                   I N D E X T O E X H I B I T S

18

   NO.   DESCRIPTION   PG

19

   1     Certification of Mailed Notice     11

20

   2     Certification of Posted Notice     11

   3     Notice of Quasi-Judicial Hearing   11

21

   4     Application for Variance Request   11

   5     Emails                                 11

22

   6     October 11, 2022, Letter         23

   7     Photographs                         23

23

   8     Emails                                 23

24

                  (Exhibits attached to transcript)

25

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

2 THE CHAIRPERSON: I call to  
3 order the meeting of the Board of  
4 Adjustment. And the first order of  
5 business is to adopt -- next from the --

6 MR. ELDRIDGE: Excuse me,  
7 Chairman.

8 THE CHAIRPERSON: Yes.

9 MR. ELDRIDGE: The first order  
10 of business would be to adopt the  
11 agenda.

12 THE CHAIRPERSON: Adopt the  
13 agenda. Oh, I'm sorry.

14 Is to adopt the agenda for  
15 tonight's meeting. Anyone?

16 MR. BASS: I'll second.

17 THE CHAIRPERSON: All in favor?

18 (MULTIPLE AYES.)

19 THE CHAIRPERSON: All right.  
20 The next would be to adopt the minutes  
21 of the June 28th meeting.

22 Has everybody had a chance to  
23 look at them?

24 MR. BARTLEY: I'll make a  
25 motion to adopt these minutes.

1 MR. ELDRIDGE: I'll second  
2 that.

3 THE CHAIRPERSON: All in favor?

4 (MULTIPLE AYES.)

5 THE CHAIRPERSON: Opposed?

6 (NO RESPONSE.)

7 THE CHAIRPERSON: All right.

8 So move that the -- those have been  
9 adopted.

10 Next is a -- is a hearing.

11 It's an appeal, Adkins appeal hearing --

12 MR. ELDRIDGE: No, sir.

13 MR. BARTLEY: That's last week.

14 MR. ELDRIDGE: You might be  
15 reading from the minutes.

16 THE CHAIRPERSON: I'm sorry.

17 MR. ELDRIDGE: This is a  
18 quasi-judicial hearing for --

19 MR. BARTLEY: It's on page --

20 MR. ELDRIDGE: -- Thomas -- how  
21 do you say your last name?

22 MR. McGEOUGH: It's McGeough.

23 MR. ELDRIDGE: McGeough.

24 MR. ELDRIDGE: Application for  
25 a variance.

1 THE CHAIRPERSON: Oh, I'm  
2 sorry.

3 MR. ELDRIDGE: You should have  
4 an order of business.

5 MS. CHASE: Yeah. Go to page  
6 57, Harry.

7 THE CHAIRPERSON: I'm going.

8 MS. CHASE: Okay. Thank you.

9 THE CHAIRPERSON: All right.  
10 Okay. This is the Thomas McGeough  
11 variance hearing of November 22nd. I'm  
12 going to go ahead and open the hearing.

13 This hearing under the Town of  
14 Kure Beach Code of Ordinance, Hearing  
15 KBC 15.08.080.D on the application for a  
16 variance submitted by Thomas McGeough,  
17 applicant, for the residential property  
18 located at 213 Fort Fischer Boulevard  
19 North.

20 The applicant is seeking a  
21 variance from the application KBC  
22 15.038.020.B, extension in yard and a  
23 setback space.

24 In making this final -- the --  
25 the factual determination, Board members

1 may only consider competent material and  
2 substantial evidence from parties  
3 withstanding.

4 Hearsay and non-expert test --  
5 opinion testimony, including opinions  
6 related to diminution of property values  
7 and traffic safety issues, may not be  
8 considered in making findings of fact.

9 The Board shall make findings  
10 of fact and identify the evidence  
11 supporting each finding.

12 Under the Kure Beach Code  
13 15.08.080.D, the applicant is entitled  
14 to a variance if he proves each of the  
15 following:

16 An unnecessary hardship would  
17 result from strict application of the  
18 regulation.

19 The hardship results from  
20 conditions which are particular to the  
21 property, such as location, size, or  
22 topography. The hardships resulting  
23 from personal circumstances, as well as  
24 hardships resulting from conditions that  
25 are common to the neighborhood or to the

1 general public, may not be a basis for  
2 granting a variance.

3 The hardship did not result  
4 from actions taken by the applicant  
5 provided that, however, the act of  
6 purchasing property with knowledge that  
7 circumstances existed, which may justify  
8 the granting of a variance, is not a  
9 self-created hardship.

10 The requested variance is  
11 consistent with the spirit, purpose, and  
12 intent of the zoning regulation, such as  
13 public safety is secured and substantial  
14 justice is achieved.

15 The Board's decision will be  
16 set forth in writing and delivered to  
17 the applicant in accordance with the  
18 provisions of Kure Beach Code  
19 12.06.050.J.

20 For the purpose of this  
21 hearing, the town attorney will be  
22 appearing in an advisory capacity to the  
23 Board and not as an advocate for any  
24 party.

25 At this time, I would like to

1 poll each member of the Board. Each  
2 member shall state whether a conflict of  
3 interest exists due to direct financial  
4 benefit, bias, or fixed opinion,  
5 undisclosed outside contract -- contact,  
6 or a close family or commercial tie.  
7 Should such a conflict exist, the Board  
8 member shall recuse him or herself from  
9 the hearing and the Board shall excuse  
10 the member from voting on the matter.

11 So is there any conflict of  
12 interest up here from the Board?

13 (MULTIPLE NOS.)

14 THE CHAIRPERSON: And I have  
15 none, either.

16 Okay. At this point in time, I  
17 guess I need to administer the oath to  
18 all people that are testifying.

19 MR. ELDRIDGE: Yeah.

20 THE CHAIRPERSON: So who are  
21 testifying? Everybody who's testifying.  
22 Just --

23 MS. SANDERS: It's us three.  
24 You just have to come give us the oath.

25 THE CHAIRPERSON: All right.

1 Okay.

2 MS. SANDERS: That's right?

3 MR. ELDRIDGE: Yeah. You can  
4 join them and you can all up your  
5 hands --

6 MS. SANDERS: Yes.

7 THE CHAIRPERSON: Okay. Raise  
8 your right hand. Place your left hand  
9 on the Bible, and repeat after me.

10 I swear to tell the truth, the  
11 whole truth, and nothing but the truth,  
12 so help me God.

13 MS. SANDERS: I swear --

14 MS. WHITE: I swear --

15 MR. McGEOUGH: I swear --

16 MS. SANDERS: -- to tell the  
17 truth --

18 MS. WHITE: -- to tell the  
19 truth --

20 MR. McGEOUGH: -- to tell the  
21 truth --

22 MS. SANDERS: -- the whole  
23 truth --

24 MS. WHITE: -- the whole  
25 truth --

1 MR. McGEOUGH: -- the whole  
2 truth --

3 MS. SANDERS: -- and nothing  
4 but the truth --

5 MS. WHITE: -- and nothing but  
6 the truth --

7 MR. McGEOUGH: -- and nothing  
8 but the truth --

9 MS. SANDERS: -- so help me  
10 God.

11 MS. WHITE: -- so help me God.

12 MR. McGEOUGH: -- so help me  
13 God.

14 THE CHAIRPERSON: Okay. Thank  
15 you.

16 Okay. I guess the first person  
17 up would be Ms. Mandy.

18 MS. SANDERS: I'm going to  
19 tender Exhibits 1 through 5. And we do  
20 have a court reporter that is  
21 transcribing the meeting today.

22 MR. ELDRIDGE: Can you go ahead  
23 and identify Exhibits 1 through 5,  
24 each --

25 MS. SANDERS: Yes. I will --

1 Yes.

2 MR. ELDRIDGE: Okay.

3 MS. SANDERS: Number 1 is the  
4 variance application. Exhibit 2 is  
5 certification of mailed notice with a  
6 copy of the notice attached thereto.  
7 Exhibit 3 is certification of posted  
8 notice with copy of notice or federal  
9 posted notice attached. Exhibit 4 is  
10 publisher's affidavit. Exhibit 5, copy  
11 of the email to members and applicant  
12 covering the transmittal of the agenda  
13 docs. And I'm bringing that now.

14 MR. ELDRIDGE: Thank you.

15 THE CHAIRPERSON: And now I  
16 guess we'll hear from the applicant.  
17 Thomas.

18 MR. McGEOUGH: Where do you  
19 want me to -- right here?

20 THE CHAIRPERSON: That's fine.

21 MR. McGEOUGH: I'll just stand  
22 here, if that's all right.

23 (DISCUSSION OFF THE RECORD.)

24 MR. McGEOUGH: Thank you all  
25 for your time. I -- Actually, we

1 already constructed a -- just a -- a  
2 roof above the deck. We didn't realize  
3 it was any issue. So this is an  
4 application for a variance to be able to  
5 keep that roof.

6           Essentially there was a raised  
7 deck at the back unit on our property.  
8 A -- A roof was the only way to shield  
9 the deck and the entrance to that  
10 cottage from the elements, you know,  
11 rain -- it rains on -- potentially.  
12 The roof wasn't constructed outside of  
13 the original footprint of that deck, so  
14 it's not expanding a nonconforming  
15 building. It is just above the -- the  
16 raised deck that was already existing  
17 there.

18           And I -- you know, we believe  
19 it's an undue burden based on the  
20 construction of the entrance to this  
21 cottage on our property at the back of  
22 the property, which is within the  
23 setback. So I'm hoping to just keep  
24 this roof that we built above this  
25 raised deck.

1                   We don't view it as a threat to  
2 public safety, and I know that our  
3 neighbor behind us, which it -- it  
4 infringes on his -- the setback to his  
5 property, is -- is okay with it  
6 remaining there.

7                   I'm happy to answer any  
8 questions, but essentially it's just a  
9 -- a roof above an existing raised deck  
10 on a nonconforming building.

11                  THE CHAIRPERSON: And -- And  
12 when did you put this roof on?

13                  MR. McGEOUGH: So the roof was  
14 put on -- it was like seven months ago  
15 now, and then I've been through trying  
16 to figure out -- I had submitted a text  
17 amendment for it, which I think -- found  
18 was probably not the appropriate way to  
19 go about trying to keep the roof, and  
20 it's been sort of a long -- I've had a  
21 lot of assistance with -- with Beth  
22 through this. But, yeah, it was -- it  
23 was last spring that it was constructed.

24                  MR. BASS: Did you get a  
25 building permit for this roof?

1                   MR. McGEOUGH: I did not. I  
2 did not think that the -- there was any  
3 necessity to do so, which I now think  
4 that there -- there may have been, so I  
5 apologize. I wasn't trying to go around  
6 any -- any code, just didn't think it  
7 was necessary at the time.

8                   MR. ELDRIDGE: Chairman, as you  
9 mentioned in your order of business, to  
10 be entitled to the variance, the  
11 applicant has to prove four things.

12                   THE CHAIRPERSON: Uh-huh.

13                   MR. ELDRIDGE: And I'm not sure  
14 we've gone through those four things  
15 clearly.

16                   And the Board may want to ask  
17 him questions about those four things so  
18 that we can get on the record the  
19 showing that's made in support of those.

20                   MR. NALEAU: So I'll start. Do  
21 you believe that this would create an  
22 unnecessary hardship?

23                   MR. McGEOUGH: I do. I -- I  
24 believe that it -- it restricts my  
25 ability to protect our -- you know, the

1 deck entrance from the elements, and I  
2 believe that that is -- as a property  
3 owner, I'm entitled to the ability to do  
4 that. So I believe that that entails an  
5 unnecessary hardship.

6 MR. BARTLEY: The photo we got  
7 doesn't show a roof. It's --

8 MR. McGEOUGH: That's not the  
9 right view. I'm not sure who took that  
10 that photo.

11 MR. BARTLEY: Okay.

12 MR. McGEOUGH: That's Unit A.

13 MS. WHITE: I think that's  
14 the --

15 MR. McGEOUGH: Yeah. So  
16 there's three little cottages on the  
17 property. That's -- That's cottage A.

18 MR. BARTLEY: Oh, okay.

19 MR. McGEOUGH: It's at the  
20 back. There's a -- a --

21 MR. BARTLEY: This is just road  
22 front?

23 MR. McGEOUGH: That's from the  
24 road.

25 MR. BASS: So you say your

1 hardship is not being able to provide  
2 protection for the deck.

3 MR. McGEOUGH: Yes, sir.

4 MR. BASS: There's -- There's  
5 no other way to provide protection for  
6 the deck that would meet these  
7 ordinances?

8 MR. McGEOUGH: There may --  
9 There may be other -- other ways to do  
10 so. I believe that this is the most  
11 effective and efficient way.

12 MR. BASS: Have you explored  
13 those avenues?

14 MR. McGEOUGH: I hadn't prior  
15 to constructing this roof, so now I'm  
16 exploring trying to keep it, but, you  
17 know, I -- I have looked into it.  
18 Basically the alternative would be like  
19 a retractable awning, which I -- is --  
20 is a fair suggestion, but I don't  
21 believe it -- it gives as -- as -- as  
22 well -- as adequate protection. And I  
23 hope I can keep the roof.

24 MR. BASS: Thank you.

25 MR. McGEOUGH: Thank you.

1                   MR. NALEAU: Do you know how  
2 long the property has been that way,  
3 along that deck or porch has been  
4 already --

5                   MR. McGEOUGH: It's in the tax  
6 code. I -- I know that at least the  
7 last ten years. I'm not sure when it  
8 was constructed. So -- But in like the  
9 property record, the deck is on there as  
10 -- as having been there for a  
11 substantial amount of time.

12                  MR. BARTLEY: So, Beth, is the  
13 -- is the deck permitted, or is it --

14                  MR. ELDRIDGE: It's not Beth's  
15 turn to testify.

16                  MR. BASS: Oh, I'm sorry.

17                         Do you know if the deck was  
18 ever permitted?

19                  MR. McGEOUGH: I believe it's  
20 permitted. I can't state with certainty  
21 that it's permitted, but I believe it to  
22 be permitted.

23                  MR. BASS: So the -- So the --

24                  MR. McNEELY: The --

25                  MR. BASS: Go ahead.

1 MR. McNEELY: The deck was per  
2 -- it was permitted in the setback?

3 MR. McGEOUGH: It's a very old  
4 unit. I -- I believe that it was, yeah.  
5 Prior to maybe the setback being  
6 ordinated [sic].

7 MR. BASS: So the deck is  
8 currently inside the setback; is that  
9 right?

10 MR. McGEOUGH: Correct. Yeah.  
11 The whole deck is inside the setback  
12 effectively, and -- and the entrance to  
13 the unit is inside the setback.

14 MR. BASS: So the current --  
15 the current roof is just -- I'm  
16 repeating a little bit here.

17 MR. McGEOUGH: Sure.

18 MR. BASS: So the current roof  
19 is in the setback, the roof that you  
20 built?

21 MR. McGEOUGH: Yes. It is.

22 MR. BASS: And -- And you did  
23 construct the roof?

24 MR. McGEOUGH: Yes.

25 MR. McNEELY: Are you a

1 licensed contractor?

2 MR. McGEOUGH: No, I'm not.

3 MR. NALEAU: So back to the  
4 hardship, I guess.

5 MR. McGEOUGH: Yes, sir.

6 MR. NALEAU: Your argument is  
7 that the -- the roof provides protection  
8 when you're going in and out of the --  
9 of the structure?

10 MR. McGEOUGH: Correct.

11 MR. NALEAU: So did something  
12 change? If it's been that way for  
13 years, why all of a sudden has that  
14 created a --

15 MR. McGEOUGH: Sure.

16 MR. NALEAU: -- hardship?

17 MR. McGEOUGH: I can't speak to  
18 the prior owners and their -- their  
19 burdens, but I can tell you that that is  
20 a fair burden for -- for me, so that --  
21 that would probably be --

22 THE CHAIRPERSON: How is it a  
23 burden for you?

24 MR. McGEOUGH: Just the inabi  
25 -- I've seen -- you know, the inability

1 to adequately enter and exit. I believe  
2 it's a burden, that getting rained on  
3 and, you know, extreme elements are --  
4 you know, unprotected from the -- the  
5 access to the unit.

6 MR. NALEAU: And you believe  
7 that this is something that's unique to  
8 your particular property?

9 MR. McGEOUGH: I believe it's  
10 unique to the -- to the location of this  
11 unit on the property.

12 And as I read the, you know,  
13 past examples of -- not in Kure Beach  
14 but other townships' variance  
15 applications, I believe that that --  
16 yes, I've seen the location of the  
17 entrance and exit as a sufficient -- you  
18 know, unique -- unique item that, you  
19 know, is sufficient to show that.

20 THE CHAIRPERSON: So do any of  
21 the other houses along that strip there  
22 have this -- have the same problem?

23 MR. McGEOUGH: So one of them  
24 is a covered -- has -- has a covered  
25 roof already over the deck and it's not

1 in the setback, so it's not an issue.

2 The other unit, I do plan on  
3 constructing some sort of roof, but I  
4 don't believe that to be in the setback,  
5 so it's -- it's not a similar issue.

6 So to answer your question,  
7 yes, one -- one other unit has a similar  
8 -- similar burden, and I plan to address  
9 that similarly.

10 THE CHAIRPERSON: So you own  
11 that property, as well?

12 MR. McGEOUGH: It's just --  
13 Yeah. It's just one property --

14 THE CHAIRPERSON: Oh, it's one  
15 property?

16 MR. McGEOUGH: -- with three  
17 units on it, yes.

18 THE CHAIRPERSON: Yeah, I can't  
19 think of any other questions. I can't  
20 think of anything else to ask him.

21 MR. BASS: I have no other  
22 questions.

23 THE CHAIRPERSON: I have no  
24 more questions.

25 MR. McNEELY: I'm good.

1 THE CHAIRPERSON: Okay.

2 MR. BARTLEY: John, got any  
3 questions?

4 MR. NALEAU: No, not right now.

5 THE CHAIRPERSON: Okay. I  
6 guess we can reserve the right to ask  
7 him more questions later?

8 MR. ELDRIDGE: That's correct.

9 THE CHAIRPERSON: All right.  
10 You can go ahead and --

11 MR. McGEOUGH: Thank you.

12 THE CHAIRPERSON: -- take a  
13 seat, and we'll -- we'll hear from our  
14 code enforcement.

15 MS. WHITE: Good evening.

16 THE CHAIRPERSON: Good evening.

17 MS. WHITE: Board members, I'm  
18 Bethany White. I'm the Code Enforcement  
19 Officer for Kure Beach. I would like to  
20 first submit for the record Exhibits 6,  
21 7, and 8.

22 MR. ELDRIDGE: Can you identify  
23 those, please?

24 MS. WHITE: Exhibit 6 is a memo  
25 from the building inspection staff.

1 Exhibit 7 is a picture of the shed roof  
2 in violation, along with a picture of  
3 the GIS map.

4 MR. ELDRIDGE: Okay.

5 MS. WHITE: Exhibit 8 is the  
6 email chain from Mr. McGeough --

7 MR. McGEOUGH: McGeough.

8 MS. WHITE: -- McGeough and  
9 myself, so...

10 MR. ELDRIDGE: And do you have  
11 copies for the Board and for the  
12 applicant?

13 MS. WHITE: I do.

14 MR. ELDRIDGE: And for the  
15 clerk?

16 MS. SANDERS: I have it. I  
17 have them all.

18 MS. WHITE: I'm just going to  
19 summarize what the memo is. It's a  
20 timeline of basically the -- what  
21 brought us to the variance today.

22 213 North Fort Fisher Boulevard  
23 is a nonconforming property in the B-2  
24 district -- zoning district. It  
25 consists of three separate cottages or

1 units that are on one property. The  
2 property itself is a standard 50-by-100  
3 lot.

4 In January of 2022, it was  
5 noted that the addition of the  
6 non-permitted shed roof was added to  
7 Unit C, which is the structure in the  
8 rear of the property. It was put over  
9 an existing porch. Unit C is  
10 nonconforming to side and rear setbacks.  
11 The addition of the porch roof creates  
12 an extension into the required rear  
13 setback and is a violation of 15.38.020  
14 of the KBC, continuous of a  
15 nonconforming situation, extension into  
16 the yard -- rear yard setback space.

17 In April of 2022, Mr. McGeough  
18 did apply for a text amendment  
19 application, which was not -- which was  
20 not adopted by town council.

21 And then on October 7th of this  
22 year, he applied for the variance before  
23 you.

24 THE CHAIRPERSON: You said the  
25 deck was already there --

1 MS. WHITE: The porch --

2 THE CHAIRPERSON: -- the porch  
3 and deck?

4 MS. WHITE: Yes, that's  
5 correct. The porch was already there.  
6 If you look at the GIS map that is from  
7 2021 -- I think is our latest GIS map --  
8 you can see the porch is there already  
9 without the roof covering on it, which  
10 Mr. McGeough --

11 MR. McGEOUGH: Yeah.

12 MS. WHITE: -- said he put on  
13 in the spring, I guess, of last year, so  
14 that would make sense.

15 MR. McGEOUGH: Yeah.

16 MS. WHITE: So sometime in  
17 December/January, we -- we just noticed  
18 it had gone up and sent him the  
19 violation.

20 MR. BASS: Does this roof push  
21 him over the impervious surface?

22 MS. WHITE: No. I do not  
23 believe he's even close to his  
24 impervious surface. They're very small  
25 cottages --

1 MR. BASS: Uh-huh.

2 MS. WHITE: -- little, small  
3 units on the lot, so it still has a lot  
4 -- you can tell by the --

5 MR. BASS: Uh-huh.

6 MS. WHITE: -- the map that it  
7 still has a lot of property on it.

8 MR. BARTLEY: So is the deck  
9 itself permitted use in that area, or is  
10 that -- I mean, I know it's been so long  
11 that it was put there, but --

12 MS. WHITE: Well, we have --

13 MR. BARTLEY: -- I mean, it may  
14 be a violation --

15 MS. WHITE: -- no record of a  
16 permit for the --

17 MR. BARTLEY: Yeah.

18 MS. WHITE: -- deck itself. It  
19 is a -- It was a previous nonconforming  
20 deck, so we wouldn't have record. There  
21 has been renovations to units -- to, I  
22 believe, the middle and the front units,  
23 were renovated. We have those permits  
24 on file by the previous owner, and  
25 that's all that we have on -- on our

1 files.

2 THE CHAIRPERSON: So  
3 technically the deck it -- the deck  
4 itself is not permitted there; am I  
5 correct?

6 MS. WHITE: I --

7 MR. ELDRIDGE: Correction.  
8 When you say permitted, are you -- I'm  
9 not sure you --

10 THE CHAIRPERSON: Is it within  
11 the code?

12 MR. ELDRIDGE: -- and the  
13 witness are speaking the same language.

14 THE CHAIRPERSON: Is it within  
15 code to allow him to have a --

16 MS. WHITE: The current porch  
17 is -- is in the setback, so it is not up  
18 to current code, but it is  
19 nonconforming.

20 THE CHAIRPERSON: Okay.

21 MS. WHITE: The structure  
22 itself is within the setback, as well,  
23 so I'm unaware of when the --

24 THE CHAIRPERSON: Okay.

25 MS. WHITE: -- porch was

1 originally built, so I can't -- I don't  
2 know if it was there when the cottage  
3 was built or if it was added later on.

4 THE CHAIRPERSON: Right.

5 MS. WHITE: I do not know that.

6 THE CHAIRPERSON: Okay.

7 MR. BASS: So -- So the porch  
8 would be, I guess in layman's terms,  
9 grandfathered in?

10 MS. WHITE: That's correct.

11 MR. BASS: Right.

12 MR. McNEELY: We're looking at  
13 this property right here; correct?

14 MS. WHITE: That's correct.  
15 Yep. I highlighted it in orange.

16 MR. McNEELY: So this is the  
17 property line?

18 MS. WHITE: That's the rear  
19 property line, yes.

20 MR. McNEELY: So the whole  
21 structure itself, is it built within the  
22 setback?

23 MS. WHITE: That's correct.

24 It's -- It's --

25 MR. McNEELY: It's in the

1 setback?

2 MS. WHITE: -- within the side  
3 and -- and rear setbacks.

4 MR. McNEELY: In the -- In the  
5 GIS map?

6 MS. WHITE: Uh-huh.

7 MR. NALEAU: Oh, it says it was  
8 noted in January 2020. How was it  
9 noted?

10 MS. WHITE: The -- Both the  
11 building inspector, John Datson, and I  
12 do daily drive-arounds --

13 MR. NALEAU: You saw it.

14 MS. WHITE: -- looking for  
15 things, violations and --

16 MR. McNEELY: So, in fact, he  
17 did not apply for a permit to build this  
18 structure?

19 MS. WHITE: He did not apply  
20 for a permit, that's correct.

21 MR. McNEELY: Okay. So we  
22 don't even know if it is built properly  
23 and meets code, not being -- having a  
24 permit?

25 MS. WHITE: It has not been

1 inspected by our staff, no.

2 MR. NALEAU: Okay. Is it a  
3 fair question for me to ask if the -- in  
4 -- in Bethany's opinion, if this is a  
5 unique arrangement, where you have a  
6 porch like this and then entering  
7 directly into a house?

8 MR. ELDRIDGE: You're welcome  
9 to ask that question.

10 MR. NALEAU: I mean, do you  
11 believe that this is a unique  
12 arrangement, absent the -- absent the  
13 roof -- the second item on the variance  
14 is that the hardship results from  
15 conditions that are peculiar to the  
16 property.

17 Is this a peculiar arrangement,  
18 to have a -- the deck or porch  
19 arrangement the way it is where it  
20 enters into the house, that somehow  
21 that's different than other properties  
22 you might see around Kure Beach and,  
23 therefore, this one should have a roof  
24 whereas others --

25 MS. WHITE: No. I believe we

1 have several properties that do not have  
2 roofs over -- over a -- their decks,  
3 front porches, or -- or what have you.  
4 That we have a lot of nonconforming  
5 properties that are similar to this and  
6 have had similar issues with not being  
7 able to extend because they are already  
8 in the setbacks.

9 So this is an issue that comes  
10 up a lot and is normally -- we would  
11 catch in the permit application process.

12 MR. NALEAU: I see. Thank you.

13 MR. ELDRIDGE: Ms. White, have  
14 you walked through all your exhibits --  
15 again, this is going into the record,  
16 so I think it would be useful to testify  
17 about what else you might have and  
18 summarizing the contents thereof.

19 MS. WHITE: The memo, we went  
20 over. The -- I think everybody's seen  
21 the pictures. The first picture is of  
22 the current shed roof in violation, and  
23 the shed roof being the -- just the --  
24 the roof that comes off of the edge over  
25 the porch.

1           The second picture is -- is  
2 really just to show the nonconforming  
3 structure that existed prior to that.

4           And the eighth exhibit is our  
5 email chain where -- kind of just  
6 showing the timeline of events, again,  
7 and how it ended up being a year-long  
8 process of the violation, followed by  
9 him applying for text amendment,  
10 followed by the variance request before  
11 you today.

12           THE CHAIRPERSON: So with the  
13 text amendment, I'm assuming then that  
14 the council did not approve?

15           MS. WHITE: The council did not  
16 adopt the text amendment. It went to  
17 planning and zoning board first, which  
18 they actually had a split vote, two and  
19 two. So they did not have a  
20 recommendation to bring to council.  
21 Council did decide not to adopt the  
22 evidence -- or the -- the change.

23           THE CHAIRPERSON: Okay. I  
24 don't have any other questions.

25           MR. BASS: I have no other

1 questions.

2 THE CHAIRPERSON: Anyone else?

3 Anybody else have any questions for

4 Beth?

5 MR. McNEELY: No, thank you.

6 THE CHAIRPERSON: Any other

7 questions for the applicant?

8 MR. ELDRIDGE: Well, the

9 applicant can come up and present a

10 rebuttal --

11 THE CHAIRPERSON: Okay.

12 MR. ELDRIDGE: -- if he's so

13 inclined.

14 MR. McGEOUGH: Sure. The only

15 thing that I would want to just touch

16 base on, you know, in -- in speaking

17 about the nonconformity of the existing

18 building, none of that is -- should --

19 should be held against this deck. It's

20 -- It's a very old building. Nothing

21 was against the code when that was

22 constructed. The deck was may -- maybe

23 not permitted but was allowed by

24 whatever current standard they had. So

25 I just wanted to note that everything

1 that was going on with the building  
2 should -- yeah, I mean --

3 MR. ELDRIDGE: I think that it  
4 would also be useful to have the  
5 applicant explain exactly what variance  
6 he wants. I don't know that that's been  
7 done.

8 MR. BASS: Would you mind doing  
9 that?

10 MR. McGEOUGH: Can you expand  
11 -- I don't understand.

12 MR. ELDRIDGE: What -- What do  
13 you -- What relief are you seeking in  
14 particular? What do you want this Board  
15 to grant you?

16 MR. McGEOUGH: I believe that  
17 it -- it's detailed out on my variance  
18 application, but you --

19 MR. ELDRIDGE: Can you review  
20 that, again?

21 MR. McGEOUGH: Yeah. Sure.  
22 Sorry. Just give me one second.

23 MR. ELDRIDGE: Here you go.  
24 You can borrow mine.

25 MR. McGEOUGH: Okay. I -- I --

1 I appreciate that. So effectively, I am  
2 just -- I'm asking for variance from the  
3 provisions of Code 15.38.020.

4 MR. ELDRIDGE: You -- And  
5 you've got paragraph two, I think?

6 MR. McGEOUGH: Paragraph -- so  
7 paragraph -- so paragraph one, I believe  
8 it says.

9 MR. ELDRIDGE: And I'm not --  
10 the -- the code sometimes prints out  
11 subsections as alpha or in numerical,  
12 but it's 15.38.020.B, I think, regarding  
13 the -- is it fair to say that you want a  
14 variance from that regulation so that  
15 the roof you constructed can extend into  
16 the setback area?

17 MR. McGEOUGH: That's correct.  
18 That -- That's what I'm applying for. I  
19 appreciate the assistance.

20 MR. ELDRIDGE: I'll take the --

21 MR. McGEOUGH: Sure.

22 MR. ELDRIDGE: -- application  
23 back, please. Thank you.

24 And unless you've got questions  
25 for the applicant or he has any other

1 points to make in his rebuttal, it would  
2 be Ms. White's turn to present a  
3 rebuttal, if she's so -- if she's so  
4 inclined.

5 MR. NALEAU: I have one  
6 question for Mr. McGeough.

7 MR. McGEOUGH: Yeah.

8 MR. NALEAU: McGeough, I'm  
9 sorry.

10 MR. McGEOUGH: No, you're good.

11 MR. NALEAU: I thought you said  
12 it was installed seven months ago --

13 MR. McGEOUGH: I -- I said --

14 MR. NALEAU: -- but when was --

15 MR. McGEOUGH: -- go ahead.

16 MR. NALEAU: -- when was the  
17 roof constructed?

18 MR. McGEOUGH: I -- I guess it  
19 was last January. Yes, sir.

20 MR. NALEAU: Did you have it  
21 built?

22 MR. McGEOUGH: Yeah. I -- I --  
23 I didn't build it myself. I think I --  
24 I might have miscommunicated that  
25 earlier. I had it built by -- by a

1 contractor.

2 MR. NALEAU: Okay.

3 MR. McGEOUGH: Yes, sir. And I  
4 -- I just -- because I'm the homeowner,  
5 it's my understanding that it was below  
6 the -- the realm of dollar amount of  
7 doing, you know, improvements to my -- I  
8 didn't believe that it entailed --  
9 required a permit for the -- the scope  
10 of business, or I would have applied at  
11 that time.

12 MR. McNEELY: And your  
13 contractor didn't tell you you needed a  
14 permit?

15 MR. McGEOUGH: He did not.  
16 Yeah. I -- And then he -- I probably  
17 won't use him in the future. So --

18 MR. McNEELY: I wouldn't think  
19 so.

20 MR. McGEOUGH: Yeah. No.

21 THE CHAIRPERSON: Okay. Any  
22 other questions?

23 (NO RESPONSE.)

24 THE CHAIRPERSON: Thank you.

25 MR. McGEOUGH: Thank you.

1 THE CHAIRPERSON: Would you  
2 like to do any kind of rebuttal?

3 MS. WHITE: I have no rebuttal.

4 MR. ELDRIDGE: Okay. All  
5 right, Chairman. Let's go over what we  
6 do next. We're going to keep the  
7 hearing open as you go through your  
8 findings of fact in case you have some  
9 additional questions for the parties.

10 THE CHAIRPERSON: Okay.

11 MR. ELDRIDGE: And the first  
12 thing we're going to do is summarize the  
13 evidence, and then we're going to walk  
14 through this decision worksheet that  
15 each of you have a copy of.

16 Does that sound okay to you?

17 MR. McGEOUGH: Yes, sir.

18 MR. ELDRIDGE: The -- So,  
19 Chairman, it's your responsibility to go  
20 ahead and summarize the evidence. I  
21 think, outside of the procedural --  
22 outside of the exhibit showing the  
23 procedural compliance, you have the  
24 application of the applicant, and you  
25 also have a memo from building

1 inspections. You also have photos from  
2 building inspections, illustrative  
3 photos. And then, finally, you have the  
4 string or chain of correspondence  
5 between building inspections and the  
6 applicant.

7 Does that sound like a fair  
8 summary?

9 THE CHAIRPERSON: Yes, sir.

10 MR. ELDRIDGE: All right.

11 Turning to your decision worksheet,  
12 let's look at number one for a minute.  
13 What -- What we're -- recall that the  
14 applicant has to prove those four things  
15 to get a variance. And the decision  
16 requires you all to make findings of  
17 fact as to whether that showing was  
18 made.

19 If the showing was made, he  
20 gets the variance. If the showing falls  
21 short, he doesn't. So let's walk  
22 through this.

23 The subject and breach finding  
24 of fact, we have to identify the  
25 evidence that supports that finding of

1 fact.

2 The subject property is or is  
3 not located at 213 Fort Fisher Boulevard  
4 North.

5 THE CHAIRPERSON: I believe it  
6 is.

7 MR. ELDRIDGE: What is -- Yeah.  
8 What we want in each is a consensus.  
9 We're not going to vote on any of these  
10 subsections. We'll vote when it comes  
11 time to the decision.

12 And I'm sorry I interrupted  
13 you. Go ahead, Chairman.

14 THE CHAIRPERSON: I -- I -- I  
15 believe it is due to the fact that even  
16 Ms. White's plat showed that it was 213  
17 Fort Fisher Boulevard North. The  
18 three --

19 MR. ELDRIDGE: So part of the  
20 evidence in --

21 THE CHAIRPERSON: -- cottages  
22 there.

23 MR. ELDRIDGE: -- Ms. White's  
24 testimony. Is there anything else that  
25 supports that finding?

1 MR. McNEELY: The memo from the  
2 building inspection staff that discusses  
3 the finding that 213 --

4 MR. ELDRIDGE: How about the  
5 application itself?

6 THE CHAIRPERSON: The  
7 application itself does, as well.

8 MR. BASS: And the testimony of  
9 the -- of Mr. McGeough.

10 THE CHAIRPERSON: Uh-huh.

11 MR. ELDRIDGE: Applicant's  
12 testimony and the application.

13 Number two, the applicant is or  
14 is not the owner of the property?

15 MR. NALEAU: Mr. --

16 THE CHAIRPERSON: Mr.  
17 McGeough --

18 MR. ELDRIDGE: And, again,  
19 we're --

20 MR. NALEAU: -- did indicate  
21 that he was the owner of the property in  
22 his testimony.

23 MR. ELDRIDGE: So that was the  
24 applicant's testimony.

25 Number three, the residential

1 structure on the property, not the roof,  
2 but the residential structure on the  
3 property is or is not nonconforming as  
4 to yard and setback requirements?

5 MR. NALEAU: Is not.

6 MR. BASS: It is nonconforming.

7 THE CHAIRPERSON: It is  
8 nonconforming.

9 MR. ELDRIDGE: It is  
10 nonconforming, that's the consensus?

11 MR. BASS: And that's based on  
12 the GIS map.

13 MR. ELDRIDGE: What other --

14 THE CHAIRPERSON: And the  
15 testimony of Ms. White.

16 MR. ELDRIDGE: Did the  
17 applicant mention it in his testimony --

18 MR. NALEAU: He did.

19 MR. ELDRIDGE: -- as well?

20 THE CHAIRPERSON: And the  
21 applicant's testimony.

22 MR. McNEELY: Yeah. He did say  
23 the roof was in the setback.

24 MR. ELDRIDGE: Turning the  
25 page, number four, a roof covering that

1 was later added to the residential  
2 structure did or did not extend into the  
3 required yard setback area?

4 MR. NALEAU: It did.

5 THE CHAIRPERSON: It did extend  
6 into the setback area.

7 MR. ELDRIDGE: And what's our  
8 evidence on that?

9 MR. BASS: All parties  
10 confirmed it.

11 MR. ELDRIDGE: The testimony of  
12 the witnesses?

13 MR. BASS: Of all witnesses.

14 MR. ELDRIDGE: Number five,  
15 applicant did or did not construct said  
16 roof covering -- and I don't mean the  
17 exact party that built it, I meant did  
18 he arrange for that installation on his  
19 structure?

20 THE CHAIRPERSON: He testified  
21 that he did have it constructed. He  
22 hired the contractor.

23 MR. ELDRIDGE: Number six,  
24 applicant is or is not seeking a  
25 variance from the application of

1 15.38.030.B [sic] so as to permit the  
2 roof covering to extend into the  
3 required yard setback area, seeking a  
4 variance from that prohibition to allow  
5 the roof that's already there to remain  
6 there into the setback area?

7 THE CHAIRPERSON: He -- He is  
8 seeking it -- in his testimony, that he  
9 was seeking it.

10 MR. BASS: And his application.

11 THE CHAIRPERSON: And his  
12 application.

13 MR. ELDRIDGE: Application and  
14 applicant -- applicant's testimony.

15 Now we're getting into those  
16 four things. Number seven, an  
17 unnecessary hardship would or would not  
18 result from the application of  
19 15.38.020.B to the property?

20 Again, 15.38.020.B says, any  
21 extension, horizontally or vertically,  
22 into the required yard setback area is  
23 -- is prohibited.

24 So would an unnecessary  
25 hardship result from applying that

1 provision to this property -- to that  
2 roof?

3 MR. NALEAU: Would not.

4 THE CHAIRPERSON: I believe it  
5 would not.

6 MR. BASS: I -- I didn't hear  
7 anything that stated, other than it  
8 would create anything other than -- it  
9 would be, you know, keep the rain off,  
10 but --

11 THE CHAIRPERSON: Right.

12 MR. BASS: -- the property had  
13 been this way forever and there are  
14 other methods of doing that that could  
15 be explored that would -- that would be  
16 within the realm of the -- of compliant  
17 to the code.

18 THE CHAIRPERSON: And the  
19 hardship --

20 MR. BASS: There was no  
21 hardship.

22 THE CHAIRPERSON: -- did not go  
23 with the -- the land, it went with the  
24 comfort of him --

25 MR. BASS: Right.

1 THE CHAIRPERSON: -- because  
2 that was in --

3 MR. ELDRIDGE: So do we --

4 THE CHAIRPERSON: -- his  
5 testimony.

6 MR. ELDRIDGE: -- do we have a  
7 consensus?

8 THE CHAIRPERSON: I would say  
9 no hardship.

10 MR. BASS: Yes.

11 MR. ELDRIDGE: Would not  
12 result --

13 MR. BASS: Would not result.

14 THE CHAIRPERSON: It would not.

15 MR. ELDRIDGE: And this would  
16 be from the applicant's testimony?

17 THE CHAIRPERSON: Yes.

18 MR. BASS: Yeah, I mean, I  
19 asked if there was other methods that --  
20 that would serve the same purpose that  
21 would be compliant, and I believe the  
22 answer was he was exploring those.

23 MR. ELDRIDGE: Turning the page  
24 to number eight. And it may be a moot  
25 point. If an unnecessary hardship

1 results from the strict application of  
2 that regulation, that hardship did or  
3 did not result from conditions peculiar  
4 to the property, such as location, size,  
5 or topography?

6 I'm not sure that question  
7 could be answered based on the consensus  
8 of the -- based on the finding you made  
9 just a second ago when you found there  
10 was no hardship. So we'll mark that  
11 N/A.

12 Number nine, if an unnecessary  
13 hardship resulted from the strict  
14 application of that regulation, that  
15 hardship did or did not result from  
16 actions taken by the applicant?

17 Again, that's not applicable,  
18 but if it was, how would you answer  
19 that?

20 THE CHAIRPERSON: A hardship  
21 did not result from the actions taken by  
22 the applicant though.

23 MR. ELDRIDGE: And what actions  
24 did the applicant take?

25 THE CHAIRPERSON: Well, he had

1 the --

2 MR. BASS: The roof.

3 THE CHAIRPERSON: -- the roof  
4 built, but it's -- it's --

5 MR. ELDRIDGE: Now if we can go  
6 to number ten. The requested variance  
7 -- this is the fourth element that would  
8 have to have been shown.

9 The requested variance is or is  
10 not consistent with the spirit, purpose,  
11 and intent to that regulation. You'll  
12 see I've got a typo there, and that  
13 should be 15.38.020.B, the regulation  
14 we've been dealing with throughout.

15 So he wants -- the applicant  
16 wants a variance to allow the roof that  
17 extends into the required setback area  
18 to remain there.

19 Would that requested variance  
20 be or not be consistent with the spirit,  
21 purpose, and intent to that regulation?

22 MR. BASS: It would --

23 THE CHAIRPERSON: It would  
24 not --

25 MR. BASS: -- not.

1 THE CHAIRPERSON: -- be  
2 consistent with it because it says you  
3 can't extend it horizontally or  
4 vertically into a nonconforming --

5 MR. BASS: Into the setback  
6 structure.

7 THE CHAIRPERSON: -- into the  
8 setback. Can't do it. And I know  
9 there's a lot of properties like that in  
10 Kure Beach, and unfortunately it can't  
11 be -- can't be done.

12 MR. ELDRIDGE: Based on those  
13 findings, let's turn to these  
14 conclusions and determine how they  
15 should go.

16 As the owner of the property,  
17 the applicant has or does not have  
18 standing to apply for the variance?

19 THE CHAIRPERSON: He has  
20 standing. He does.

21 MR. ELDRIDGE: Number two, the  
22 Board shall grant the variance -- shall  
23 grant the variance upon a showing by the  
24 applicant that: One, an unnecessary  
25 hardship would result from the strict

1 application of that regulation to the  
2 property; two, that hardship results  
3 from conditions which are peculiar to  
4 the property; three, the hardship did  
5 not result from actions taken by the  
6 applicant; and, four, the requested  
7 variance is consistent with the spirit,  
8 purpose, and intent to that regulation.

9 The question -- The consensus I  
10 need is that those -- those are the  
11 elements that are required to be shown  
12 in order to get a variance, and I don't  
13 imagine there's any dispute about that.  
14 That was in the order of business and  
15 also in the town code about -- regarding  
16 getting a variance. Agreed?

17 MR. BASS: Agreed.

18 THE CHAIRPERSON: Agreed.

19 MR. BARTLEY: Agreed.

20 MR. ELDRIDGE: Number three,  
21 the applicant has or has not shown that  
22 each of these four requirements have  
23 been met. The applicant has shown or  
24 has not shown?

25 THE CHAIRPERSON: He has not

1 shown.

2 MR. ELDRIDGE: And which ones  
3 did he -- for the record, let's identify  
4 which of those four elements -- and you  
5 can look back on your findings  
6 worksheet. We start asking about them  
7 on number seven. So it'd be seven,  
8 eight, nine, and ten.

9 Let's identify for the record  
10 which of those elements that he did --  
11 that the applicant did not show.

12 MR. NALEAU: I'd say that the  
13 -- the applicant has not demonstrated  
14 that there was an unnecessary hardship  
15 that results from the application of the  
16 regulation as it's written and also  
17 based on -- we heard from the code  
18 enforcement officer, I would say, also  
19 that I don't believe that even if there  
20 was a hardship due to the weather in  
21 entering the house, I don't believe  
22 those conditions are peculiar to this  
23 particular property, so I don't believe  
24 the second element has been demonstrated  
25 out.

1 MR. ELDRIDGE: Anything else?

2 Okay. And what's number three?

3 MR. BASS: Yeah. He -- He said  
4 that the hardship was not due to his  
5 actions but based on the property.

6 MR. ELDRIDGE: Uh-huh. But  
7 y'all found there wasn't a hardship?

8 MR. BASS: There was no a  
9 hardship.

10 MR. ELDRIDGE: And then let's  
11 address number four. It was: Did the  
12 applicant show the Board that the --  
13 what he's requesting is consistent with  
14 that regulation?

15 MR. BASS: It's not consistent.

16 MR. ELDRIDGE: Four-fifths of  
17 you need to vote to grant the variance.  
18 And if you have any more questions for  
19 either of the parties, the code --  
20 Ms. White or the applicant, now is the  
21 time to go ahead and ask them and wrap  
22 that part up.

23 The next order of business  
24 would be to close the hearing and then  
25 to deliberate, you know, a concession,

1 and vote either to grant or deny the  
2 variance.

3 And, again, the four elements  
4 would have to be shown to get the  
5 variance.

6 So if you have any additional  
7 questions, go ahead and ask them.

8 MR. BASS: I have no questions.

9 MR. McNEELY: I have no  
10 questions.

11 THE CHAIRPERSON: Anybody have  
12 any questions either way?

13 MR. BARTLEY: No.

14 (NO RESPONSE.)

15 MR. ELDRIDGE: And go ahead and  
16 close the hearing, please.

17 THE CHAIRPERSON: All right.

18 At this time, I'm going to close the  
19 hearing, and we will go into our  
20 decision-making process and decide  
21 whether or not to grant this variance or  
22 not.

23 Based on the decision worksheet  
24 that -- that I see here and the  
25 questions that we -- we answered, the

1 hardship goes with the land. It doesn't  
2 go with the individual. He testified  
3 that the elements are what he wants to  
4 move for and that, unfortunately, it  
5 does not go with the land.

6           And when I'm talking about --  
7 for you members that are -- are new to  
8 the Board, that if there was like a huge  
9 rock or something that was sitting there  
10 and they had to go around it, then, you  
11 know, that would be a hardship. It goes  
12 with the land and a river runs through  
13 it or you needed to move something, that  
14 would be part of -- this was a structure  
15 that was nonconforming probably after it  
16 was built. Who knows how long ago it  
17 was built. I know cottages that have  
18 been built in the '40s that are  
19 nonconforming, and you can't -- now that  
20 the ordinance is the way it is, you  
21 can't add to them, you can't -- you  
22 can't do anything with them.

23           The council obviously didn't  
24 believe that it was necessary to give  
25 this man a text amendment. I just -- I

1 just feel that he hasn't met his burden  
2 of showing that there was a hardship  
3 that goes with the land and not with him  
4 personally. So that -- that's -- that's  
5 my thoughts.

6 Anybody have anything that they  
7 want to add or --

8 MR. BASS: I -- I pretty much  
9 concur with what you said.

10 MR. BARTLEY: I do, too.

11 MR. NALEAU: Nothing other  
12 than, thank you, Mr. McGeough, for  
13 bringing it to our attention and letting  
14 us consider it.

15 THE CHAIRPERSON: So do we take  
16 a vote now?

17 MR. ELDRIDGE: You can  
18 entertain a motion to either grant or  
19 deny the variance.

20 THE CHAIRPERSON: Oh, I'm  
21 sorry.

22 I'd like to have a motion to  
23 either grant or deny the variance on  
24 this issue.

25 MR. NALEAU: I'll make a motion

1 to deny the variance.

2 MR. BASS: I second it.

3 THE CHAIRPERSON: All in favor  
4 to deny the variance.

5 (MULTIPLE AYES.)

6 THE CHAIRPERSON: Anyone  
7 opposed?

8 (NO RESPONSE.)

9 THE CHAIRPERSON: Okay. So be  
10 it.

11 MR. ELDRIDGE: So I -- I'll --  
12 it'll take me a little bit of time, but  
13 I'll produce a written decision and --  
14 and arrange to have that signed by the  
15 Chairman and filed with the town clerk  
16 and delivered to the applicant.

17 THE CHAIRPERSON: Okay. So we  
18 return to open session, and then -- do  
19 we have any motion to adjourn?

20 MR. BASS: I make a motion to  
21 adjourn.

22 MR. NALEAU: I second that.

23 THE CHAIRPERSON: All in favor.

24 (MULTIPLE AYES.)

25 THE CHAIRPERSON: All right.

1      **Opposed?**

2                           **(NO RESPONSE.)**

3                           **THE CHAIRPERSON:   The meeting**  
4      **is adjourned.**

5                           **(THE MEETING ADJOURNED AT 6:50 P.M.)**

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**CERTIFICATE**

State of North Carolina  
County of Wake

I, Kylie Fleming, a notary public in and for the State of North Carolina, do hereby certify that I was the court reporter at the aforementioned proceedings and that the foregoing is a true, correct, and full transcript of the proceedings herein.

I further certify that I am not counsel for, nor in the employment of any of the parties to this action; that I am not related by blood or marriage to any of the parties, nor am I interested, either directly or indirectly, in the results of this action.

In witness whereon, I have hereto set my hand, this the 16th day of February, 2023.

Kylie Fleming  
Professional Court Reporter

| Exhibits                                   |  |   |
|--|--|---|
| <b>11-22 105868 Exhibit 01</b>             | <b>50-by-100</b> 24:2                        | <b>advocate</b> 7:23  |
| <b>11-22 105868 Exhibit 02</b> 11:4        | <b>57</b> 5:6                                | <b>affidavit</b> 11:10  |
| <b>11-22 105868 Exhibit 03</b> 11:7        | <b>6</b>                                     | <b>agenda</b> 3:11,13,14 11:12  |
| <b>11-22 105868 Exhibit 04</b> 11:9        | <b>6</b> 22:20,24                            | <b>Agreed</b> 50:16,17,18,19  |
| <b>11-22 105868 Exhibit 05</b> 11:10       | <b>7</b>                                     | <b>ahead</b> 5:12 10:22 17:25 22:10<br>36:15 38:20 40:13 52:21 53:7,15  |
| <b>11-22 105868 Exhibit 06</b> 22:24       | <b>7</b> 22:21 23:1                          | <b>allowed</b> 33:23  |
| <b>11-22 105868 Exhibit 07</b> 23:1        | <b>7th</b> 24:21                             | <b>alpha</b> 35:11  |
| <b>11-22 105868 Exhibit 08</b> 23:5        | <b>8</b>                                     | <b>alternative</b> 16:18  |
| <b>1</b> 10:19,23 11:3                     | <b>8</b> 22:21 23:5                          | <b>amendment</b> 13:17 24:18 32:9,<br>13,16 54:25   |
| <b>12.06.050.J</b> 7:19                    | <b>A</b>                                     | <b>amount</b> 17:11 37:6  |
| <b>15.038.020.B</b> 5:22                   | <b>ability</b> 14:25 15:3                    | <b>apologize</b> 14:5   |
| <b>15.08.080.D</b> 5:15 6:13               | <b>absent</b> 30:12                          | <b>appeal</b> 4:11  |
| <b>15.38.020</b> 24:13 35:3                | <b>access</b> 20:5                           | <b>appearing</b> 7:22   |
| <b>15.38.020.B</b> 35:12 44:19,20<br>48:13 | <b>accordance</b> 7:17                       | <b>applicable</b> 47:17   |
| <b>15.38.030.B</b> 44:1                    | <b>achieved</b> 7:14                         | <b>applicant</b> 5:17,20 6:13 7:4,17<br>11:11,16 14:11 23:12 33:7,9 34:5<br>35:25 38:24 39:6,14 41:13 42:17<br>43:15,24 44:14 47:16,22,24 48:15<br>49:17,24 50:6,21,23 51:11,13<br>52:12,20 56:16 |
| <b>2</b>                                   | <b>act</b> 7:5                               | <b>applicant's</b> 41:11,24 42:21<br>44:14 46:16  |
| <b>2</b> 11:4                              | <b>actions</b> 7:4 47:16,21,23 50:5<br>52:5  | <b>application</b> 4:24 5:15,21 6:17<br>11:4 12:4 24:19 31:11 34:18<br>35:22 38:24 41:5,7,12 43:25<br>44:10,12,13,18 47:1,14 50:1<br>51:15  |
| <b>2020</b> 29:8                           | <b>add</b> 54:21 55:7                        | <b>applications</b> 20:15   |
| <b>2021</b> 25:7                           | <b>added</b> 24:6 28:3 43:1                  | <b>applied</b> 24:22 37:10  |
| <b>2022</b> 24:4,17                        | <b>addition</b> 24:5,11                      | <b>apply</b> 24:18 29:17,19 49:18   |
| <b>213</b> 5:18 23:22 40:3,16 41:3         | <b>additional</b> 38:9 53:6                  | <b>applying</b> 32:9 35:18 44:25  |
| <b>22nd</b> 5:11                           | <b>address</b> 21:8 52:11                    | <b>approve</b> 32:14  |
| <b>28th</b> 3:21                           | <b>adequate</b> 16:22                        | <b>April</b> 24:17  |
| <b>3</b>                                   | <b>adequately</b> 20:1                       | <b>area</b> 26:9 35:16 43:3,6 44:3,6,22<br>48:17  |
| <b>3</b> 11:7                              | <b>adjourn</b> 56:19,21                      | <b>argument</b> 19:6  |
| <b>4</b>                                   | <b>Adjustment</b> 3:4                        | <b>arrange</b> 43:18 56:14  |
| <b>4</b> 11:9                              | <b>Adkins</b> 4:11                           | <b>arrangement</b> 30:5,12,17,19  |
| <b>40s</b> 54:18                           | <b>administer</b> 8:17                       | <b>assistance</b> 13:21 35:19   |
| <b>5</b>                                   | <b>adopt</b> 3:5,10,12,14,20,25 32:16,<br>21 |   |
| <b>5</b> 10:19,23 11:10                    | <b>adopted</b> 4:9 24:20                     |   |
|  | <b>advisory</b> 7:22                         |   |

**assuming** 32:13

**attached** 11:6,9

**attention** 55:13

**attorney** 7:21

**avenues** 16:13

**awning** 16:19

**AYES** 3:18 4:4 56:5,24

---

**B**

---

**B-2** 23:23

**back** 12:7,21 15:20 19:3 35:23  
51:5

**BARTLEY** 3:24 4:13,19 15:6,11,  
18,21 17:12 22:2 26:8,13,17  
50:19 53:13 55:10

**base** 33:16

**based** 12:19 42:11 47:7,8 49:12  
51:17 52:5 53:23

**basically** 16:18 23:20

**basis** 7:1

**BASS** 3:16 13:24 15:25 16:4,12,  
24 17:16,23,25 18:7,14,18,22  
21:21 25:20 26:1,5 28:7,11 32:25  
34:8 41:8 42:6,11 43:9,13 44:10  
45:6,12,20,25 46:10,13,18 48:2,  
22,25 49:5 50:17 52:3,8,15 53:8  
55:8 56:2,20

**Beach** 5:14 6:12 7:18 20:13  
22:19 30:22 49:10

**benefit** 8:4

**Beth** 13:21 17:12 33:4

**Beth's** 17:14

**Bethany** 22:18

**Bethany's** 30:4

**bias** 8:4

**Bible** 9:9

**bit** 18:16 56:12

**board** 3:3 5:25 6:9 7:23 8:1,7,9,  
12 14:16 22:17 23:11 32:17 34:14  
49:22 52:12 54:8

**Board's** 7:15

**borrow** 34:24

**Boulevard** 5:18 23:22 40:3,17

**breach** 39:23

**bring** 32:20

**bringing** 11:13 55:13

**brought** 23:21

**build** 29:17 36:23

**building** 12:15 13:10,25 22:25  
29:11 33:18,20 34:1 38:25 39:2,5  
41:2

**built** 12:24 18:20 28:1,3,21 29:22  
36:21,25 43:17 48:4 54:16,17,18

**burden** 12:19 19:20,23 20:2 21:8  
55:1

**burdens** 19:19

**business** 3:5,10 5:4 14:9 37:10  
50:14 52:23

---

**C**

---

**call** 3:2

**capacity** 7:22

**case** 38:8

**catch** 31:11

**certainty** 17:20

**certification** 11:5,7

**chain** 23:6 32:5 39:4

**Chairman** 3:7 14:8 38:5,19 40:13  
56:15

**CHAIRPERSON** 3:2,8,12,17,19  
4:3,5,7,16 5:1,7,9 8:14,20,25 9:7  
10:14 11:15,20 13:11 14:12 19:22  
20:20 21:10,14,18,23 22:1,5,9,12,  
16 24:24 25:2 27:2,10,14,20,24  
28:4,6 32:12,23 33:2,6,11 37:21,  
24 38:1,10 39:9 40:5,14,21 41:6,  
10,16 42:7,14,20 43:5,20 44:7,11  
45:4,11,18,22 46:1,4,8,14,17  
47:20,25 48:3,23 49:1,7,19 50:18,  
25 53:11,17 55:15,20 56:3,6,9,17,  
23,25

**chance** 3:22

**change** 19:12 32:22

**CHASE** 5:5,8

**circumstances** 6:23 7:7

**clerk** 23:15 56:15

**close** 8:6 25:23 52:24 53:16,18

**code** 5:14 6:12 7:18 14:6 17:6  
22:14,18 27:11,15,18 29:23 33:21  
35:3,10 45:17 50:15 51:17 52:19

**comfort** 45:24

**commercial** 8:6

**common** 6:25

**competent** 6:1

**compliance** 38:23

**compliant** 45:16 46:21

**concession** 52:25

**conclusions** 49:14

**concur** 55:9

**conditions** 6:20,24 30:15 47:3  
50:3 51:22

**confirmed** 43:10

**conflict** 8:2,7,11

**consensus** 40:8 42:10 46:7 47:7  
50:9

**considered** 6:8

**consistent** 7:11 48:10,20 49:2  
50:7 52:13,15

**consists** 23:25

**construct** 18:23 43:15

**constructed** 12:1,12 13:23 17:8  
33:22 35:15 36:17 43:21

**constructing** 16:15 21:3

**construction** 12:20

**contact** 8:5

**contents** 31:18

**continuous** 24:14

**contract** 8:5

**contractor** 19:1 37:1,13 43:22

**copies** 23:11

**copy** 11:6,8,10 38:15

**correct** 18:10 19:10 22:8 25:5

27:5 28:10,13,14,23 29:20 35:17  
**Correction** 27:7  
**correspondence** 39:4  
**cottage** 12:10,21 15:17 28:2  
**cottages** 15:16 23:25 25:25  
40:21 54:17  
**council** 24:20 32:14,15,20,21  
54:23  
**court** 10:20  
**covered** 20:24  
**covering** 11:12 25:9 42:25 43:16  
44:2  
**create** 14:21 45:8  
**created** 19:14  
**creates** 24:11  
**current** 18:14,15,18 27:16,18  
31:22 33:24

---

**D**

---

**daily** 29:12  
**Datson** 29:11  
**dealing** 48:14  
**December/january** 25:17  
**decide** 32:21 53:20  
**decision** 7:15 38:14 39:11,15  
40:11 53:23 56:13  
**decision-making** 53:20  
**deck** 12:2,7,9,13,16,25 13:9 15:1  
16:2,6 17:3,9,13,17 18:1,7,11  
20:25 24:25 25:3 26:8,18,20 27:3  
30:18 33:19,22  
**decks** 31:2  
**deliberate** 52:25  
**delivered** 7:16 56:16  
**demonstrated** 51:13,24  
**deny** 53:1 55:19,23 56:1,4  
**detailed** 34:17  
**determination** 5:25  
**determine** 49:14

**diminution** 6:6  
**direct** 8:3  
**directly** 30:7  
**discusses** 41:2  
**DISCUSSION** 11:23  
**dispute** 50:13  
**district** 23:24  
**docs** 11:13  
**dollar** 37:6  
**drive-arounds** 29:12  
**due** 8:3 40:15 51:20 52:4

---

**E**

---

**earlier** 36:25  
**edge** 31:24  
**effective** 16:11  
**effectively** 18:12 35:1  
**efficient** 16:11  
**eighth** 32:4  
**ELDRIDGE** 3:6,9 4:1,12,14,17,  
20,23,24 5:3 8:19 9:3 10:22 11:2,  
14 14:8,13 17:14 22:8,22 23:4,10,  
14 27:7,12 30:8 31:13 33:8,12  
34:3,12,19,23 35:4,9,20,22 38:4,  
11,18 39:10 40:7,19,23 41:4,11,  
18,23 42:9,13,16,19,24 43:7,11,  
14,23 44:13 46:3,6,11,15,23  
47:23 48:5 49:12,21 50:20 51:2  
52:1,6,10,16 53:15 55:17 56:11  
**element** 48:7 51:24  
**elements** 12:10 15:1 20:3 50:11  
51:4,10 53:3 54:3  
**email** 11:11 23:6 32:5  
**ended** 32:7  
**enforcement** 22:14,18 51:18  
**entailed** 37:8  
**entails** 15:4  
**enter** 20:1  
**entering** 30:6 51:21  
**enters** 30:20

**entertain** 55:18  
**entitled** 6:13 14:10 15:3  
**entrance** 12:9,20 15:1 18:12  
20:17  
**essentially** 12:6 13:8  
**evening** 22:15,16  
**events** 32:6  
**everybody's** 31:20  
**evidence** 6:2,10 32:22 38:13,20  
39:25 40:20 43:8  
**exact** 43:17  
**examples** 20:13  
**excuse** 3:6 8:9  
**exhibit** 11:4,7,9,10 22:24 23:1,5  
32:4 38:22  
**exhibits** 10:19,23 22:20 31:14  
**exist** 8:7  
**existed** 7:7 32:3  
**existing** 12:16 13:9 24:9 33:17  
**exists** 8:3  
**exit** 20:1,17  
**expand** 34:10  
**expanding** 12:14  
**explain** 34:5  
**explored** 16:12 45:15  
**exploring** 16:16 46:22  
**extend** 31:7 35:15 43:2,5 44:2  
49:3  
**extends** 48:17  
**extension** 5:22 24:12,15 44:21  
**extreme** 20:3

---

**F**

---

**fact** 6:8,10 29:16 38:8 39:17,24  
40:1,15  
**factual** 5:25  
**fair** 16:20 19:20 30:3 35:13 39:7  
**falls** 39:20



**layman's** 28:8  
**left** 9:8  
**letting** 55:13  
**licensed** 19:1  
**located** 5:18 40:3  
**location** 6:21 20:10,16 47:4  
**long** 13:20 17:2 26:10 54:16  
**looked** 16:17  
**lot** 13:21 24:3 26:3,7 31:4,10 49:9

---

**M**

---

**made** 14:19 39:18,19 47:8  
**mailed** 11:5  
**make** 3:24 6:9 25:14 36:1 39:16  
55:25 56:20  
**making** 5:24 6:8  
**man** 54:25  
**Mandy** 10:17  
**map** 23:3 25:6,7 26:6 29:5 42:12  
**mark** 47:10  
**material** 6:1  
**matter** 8:10  
**Mcgeough** 4:22,23 5:10,16 9:15,  
20 10:1,7,12 11:18,21,24 13:13  
14:1,23 15:8,12,15,19,23 16:3,8,  
14,25 17:5,19 18:3,10,17,21,24  
19:2,5,10,15,17,24 20:9,23 21:12,  
16 22:11 23:6,7,8 24:17 25:10,11,  
15 33:14 34:10,16,21,25 35:6,17,  
21 36:6,7,8,10,13,15,18,22 37:3,  
15,20,25 38:17 41:9,17 55:12  
**Mcneely** 17:24 18:1,25 21:25  
28:12,16,20,25 29:4,16,21 33:5  
37:12,18 41:1 42:22 53:9  
**meant** 43:17  
**meet** 16:6  
**meeting** 3:3,15,21 10:21  
**meets** 29:23  
**member** 8:1,2,8,10  
**members** 5:25 11:11 22:17 54:7

**memo** 22:24 23:19 31:19 38:25  
41:1  
**mention** 42:17  
**mentioned** 14:9  
**met** 50:23 55:1  
**methods** 45:14 46:19  
**middle** 26:22  
**mind** 34:8  
**mine** 34:24  
**minute** 39:12  
**minutes** 3:20,25 4:15  
**miscommunicated** 36:24  
**months** 13:14 36:12  
**moot** 46:24  
**motion** 3:25 55:18,22,25 56:19,  
20  
**move** 4:8 54:4,13  
**MULTIPLE** 3:18 4:4 8:13 56:5,24

---

**N**

---

**N/a** 47:11  
**NALEAU** 14:20 17:1 19:3,6,11,  
16 20:6 22:4 29:7,13 30:2,10  
31:12 36:5,8,11,14,16,20 37:2  
41:15,20 42:5,18 43:4 45:3 51:12  
55:11,25 56:22  
**necessity** 14:3  
**needed** 37:13 54:13  
**neighbor** 13:3  
**neighborhood** 6:25  
**non-expert** 6:4  
**non-permitted** 24:6  
**nonconforming** 12:14 13:10  
23:23 24:10,15 26:19 27:19 31:4  
32:2 42:3,6,8,10 49:4 54:15,19  
**nonconformity** 33:17  
**North** 5:19 23:22 40:4,17  
**NOS** 8:13  
**note** 33:25

**noted** 24:5 29:8,9  
**notice** 11:5,6,8,9  
**noticed** 25:17  
**November** 5:11  
**number** 11:3 39:12 41:13,25  
42:25 43:14,23 44:16 46:24 47:12  
48:6 49:21 50:20 51:7 52:2,11  
**numerical** 35:11

---

**O**

---

**oath** 8:17,24  
**October** 24:21  
**officer** 22:19 51:18  
**open** 5:12 38:7 56:18  
**opinion** 6:5 8:4 30:4  
**opinions** 6:5  
**opposed** 4:5 56:7  
**orange** 28:15  
**order** 3:3,4,9 5:4 14:9 50:12,14  
52:23  
**ordinance** 5:14 54:20  
**ordained** 18:6  
**ordinances** 16:7  
**original** 12:13  
**originally** 28:1  
**owner** 15:3 26:24 41:14,21 49:16  
**owners** 19:18

---

**P**

---

**paragraph** 35:5,6,7  
**part** 40:19 52:22 54:14  
**parties** 6:2 38:9 43:9 52:19  
**party** 7:24 43:17  
**past** 20:13  
**peculiar** 30:15,17 47:3 50:3  
51:22  
**people** 8:18  
**permit** 13:25 26:16 29:17,20,24

31:11 37:9,14 44:1  
**permits** 26:23  
**permitted** 17:13,18,20,21,22  
18:2 26:9 27:4,8 33:23  
**person** 10:16  
**personal** 6:23  
**personally** 55:4  
**photo** 15:6,10  
**photos** 39:1,3  
**picture** 23:1,2 31:21 32:1  
**pictures** 31:21  
**Place** 9:8  
**plan** 21:2,8  
**planning** 32:17  
**plat** 40:16  
**point** 8:16 46:25  
**points** 36:1  
**poll** 8:1  
**porch** 17:3 24:9,11 25:1,2,5,8  
27:16,25 28:7 30:6,18 31:25  
**porches** 31:3  
**posted** 11:7,9  
**potentially** 12:11  
**present** 33:9 36:2  
**pretty** 55:8  
**previous** 26:19,24  
**prints** 35:10  
**prior** 16:14 18:5 19:18 32:3  
**problem** 20:22  
**procedural** 38:21,23  
**process** 31:11 32:8 53:20  
**produce** 56:13  
**prohibited** 44:23  
**prohibition** 44:4  
**properly** 29:22  
**properties** 30:21 31:1,5 49:9  
**property** 5:17 6:6,21 7:6 12:7,21,  
22 13:5 15:2,17 17:2,9 20:8,11

21:11,13,15 23:23 24:1,2,8 26:7  
28:13,17,19 30:16 40:2 41:14,21  
42:1,3 44:19 45:1,12 47:4 49:16  
50:2,4 51:23 52:5  
**protect** 14:25  
**protection** 16:2,5,22 19:7  
**prove** 14:11 39:14  
**proves** 6:14  
**provide** 16:1,5  
**provided** 7:5  
**provision** 45:1  
**provisions** 7:18 35:3  
**public** 7:1,13 13:2  
**publisher's** 11:10  
**purchasing** 7:6  
**purpose** 7:11,20 46:20 48:10,21  
50:8  
**push** 25:20  
**put** 13:12,14 24:8 25:12 26:11

---

**Q**

---

**quasi-judicial** 4:18  
**question** 21:6 30:3,9 36:6 47:6  
50:9  
**questions** 13:8 14:17 21:19,22,  
24 22:3,7 32:24 33:1,3,7 35:24  
37:22 38:9 52:18 53:7,8,10,12,25

---

**R**

---

**rain** 12:11 45:9  
**rained** 20:2  
**rains** 12:11  
**Raise** 9:7  
**raised** 12:6,16,25 13:9  
**read** 20:12  
**reading** 4:15  
**realize** 12:2  
**realm** 37:6 45:16  
**rear** 24:8,10,12,16 28:18 29:3

**rebuttal** 33:10 36:1,3 38:2,3  
**recall** 39:13  
**recommendation** 32:20  
**record** 11:23 14:18 17:9 22:20  
26:15,20 31:15 51:3,9  
**recuse** 8:8  
**regulation** 6:18 7:12 35:14 47:2,  
14 48:11,13,21 50:1,8 51:16  
52:14  
**related** 6:6  
**relief** 34:13  
**remain** 44:5 48:18  
**remaining** 13:6  
**renovated** 26:23  
**renovations** 26:21  
**repeat** 9:9  
**repeating** 18:16  
**reporter** 10:20  
**request** 32:10  
**requested** 7:10 48:6,9,19 50:6  
**requesting** 52:13  
**required** 24:12 37:9 43:3 44:3,22  
48:17 50:11  
**requirements** 42:4 50:22  
**requires** 39:16  
**reserve** 22:6  
**residential** 5:17 41:25 42:2 43:1  
**RESPONSE** 4:6 37:23 53:14  
56:8  
**responsibility** 38:19  
**restricts** 14:24  
**result** 6:17 7:3 44:18,25 46:12,13  
47:3,15,21 49:25 50:5  
**resulted** 47:13  
**resulting** 6:22,24  
**results** 6:19 30:14 47:1 50:2  
51:15  
**retractable** 16:19  
**return** 56:18

**review** 34:19

**river** 54:12

**road** 15:21,24

**rock** 54:9

**roof** 12:2,5,8,12,24 13:9,12,13,  
19,25 15:7 16:15,23 18:15,18,19,  
23 19:7 20:25 21:3 23:1 24:6,11  
25:9,20 30:13,23 31:22,23,24  
35:15 36:17 42:1,23,25 43:16  
44:2,5 45:2 48:2,3,16

**roofs** 31:2

**runs** 54:12

---

**S**

---

**safety** 6:7 7:13 13:2

**SANDERS** 8:23 9:2,6,13,16,22  
10:3,9,18,25 11:3 23:16

**scope** 37:9

**seat** 22:13

**secured** 7:13

**seeking** 5:20 34:13 43:24 44:3,8,  
9

**self-created** 7:9

**sense** 25:14

**separate** 23:25

**serve** 46:20

**session** 56:18

**set** 7:16

**setback** 5:23 12:23 13:4 18:2,5,  
8,11,13,19 21:1,4 24:13,16 27:17,  
22 28:22 29:1 35:16 42:4,23 43:3,  
6 44:3,6,22 48:17 49:5,8

**setbacks** 24:10 29:3 31:8

**shed** 23:1 24:6 31:22,23

**shield** 12:8

**short** 39:21

**show** 15:7 20:19 32:2 51:11  
52:12

**showed** 40:16

**showing** 14:19 32:6 38:22 39:17,  
19,20 49:23 55:2

**shown** 48:8 50:11,21,23,24 51:1  
53:4

**sic** 18:6 44:1

**side** 24:10 29:2

**signed** 56:14

**similar** 21:5,7,8 31:5,6

**similarly** 21:9

**sir** 4:12 16:3 19:5 36:19 37:3  
38:17 39:9

**sitting** 54:9

**situation** 24:15

**size** 6:21 47:4

**small** 25:24 26:2

**sort** 13:20 21:3

**sound** 38:16 39:7

**space** 5:23 24:16

**speak** 19:17

**speaking** 27:13 33:16

**spirit** 7:11 48:10,20 50:7

**split** 32:18

**spring** 13:23 25:13

**staff** 22:25 30:1 41:2

**stand** 11:21

**standard** 24:2 33:24

**standing** 49:18,20

**start** 14:20 51:6

**state** 8:2 17:20

**stated** 45:7

**strict** 6:17 47:1,13 49:25

**string** 39:4

**strip** 20:21

**structure** 19:9 24:7 27:21 28:21  
29:18 32:3 42:1,2 43:2,19 49:6  
54:14

**subject** 39:23 40:2

**submit** 22:20

**submitted** 5:16 13:16

**subsections** 35:11 40:10

**substantial** 6:2 7:13 17:11

**sudden** 19:13

**sufficient** 20:17,19

**suggestion** 16:20

**summarize** 23:19 38:12,20

**summarizing** 31:18

**summary** 39:8

**support** 14:19

**supporting** 6:11

**supports** 39:25 40:25

**surface** 25:21,24

**swear** 9:10,13,14,15

---

**T**

---

**talking** 54:6

**tax** 17:5

**technically** 27:3

**ten** 17:7 48:6 51:8

**tender** 10:19

**terms** 28:8

**test** 6:4

**testified** 43:20 54:2

**testify** 17:15 31:16

**testifying** 8:18,21

**testimony** 6:5 40:24 41:8,12,22,  
24 42:15,17,21 43:11 44:8,14  
46:5,16

**text** 13:16 24:18 32:9,13,16 54:25

**thereof** 31:18

**thereto** 11:6

**thing** 33:15 38:12

**things** 14:11,14,17 29:15 39:14  
44:16

**Thomas** 4:20 5:10,16 11:17

**thought** 36:11

**thoughts** 55:5

**threat** 13:1

**tie** 8:6

**time** 7:25 8:16 11:25 14:7 17:11  
37:11 40:11 52:21 53:18 56:12

**timeline** 23:20 32:6

**today** 10:21 23:21 32:11

**tonight's** 3:15

**topography** 6:22 47:5

**touch** 33:15

**town** 5:13 7:21 24:20 50:15 56:15

**townships'** 20:14

**traffic** 6:7

**transcribing** 10:21

**transmittal** 11:12

**truth** 9:10,11,17,19,21,23,25  
10:2,4,6,8

**turn** 17:15 36:2 49:13

**Turning** 39:11 42:24 46:23

**typo** 48:12

---

**U**

---

**Uh-huh** 14:12 26:1,5 29:6 41:10  
52:6

**unaware** 27:23

**understand** 34:11

**understanding** 37:5

**undisclosed** 8:5

**undue** 12:19

**unique** 20:7,10,18 30:5,11

**unit** 12:7 15:12 18:4,13 20:5,11  
21:2,7 24:7,9

**units** 21:17 24:1 26:3,21,22

**unnecessary** 6:16 14:22 15:5  
44:17,24 46:25 47:12 49:24 51:14

**unprotected** 20:4

---

**V**

---

**values** 6:6

**variance** 4:25 5:11,16,21 6:14  
7:2,8,10 11:4 12:4 14:10 20:14  
23:21 24:22 30:13 32:10 34:5,17

35:2,14 39:15,20 43:25 44:4 48:6,  
9,16,19 49:18,22,23 50:7,12,16  
52:17 53:2,5,21 55:19,23 56:1,4

**vertically** 44:21 49:4

**view** 13:1 15:9

**violation** 23:2 24:13 25:19 26:14  
31:22 32:8

**violations** 29:15

**vote** 32:18 40:9,10 52:17 53:1  
55:16

**voting** 8:10

---

**W**

---

**walk** 38:13 39:21

**walked** 31:14

**wanted** 33:25

**ways** 16:9

**weather** 51:20

**week** 4:13

**White** 9:14,18,24 10:5,11 15:13  
22:15,17,18,24 23:5,8,13,18 25:1,  
4,12,16,22 26:2,6,12,15,18 27:6,  
16,21,25 28:5,10,14,18,23 29:2,6,  
10,14,19,25 30:25 31:13,19 32:15  
38:3 42:15 52:20

**White's** 36:2 40:16,23

**withstanding** 6:3

**witnesses** 43:12,13

**worksheet** 38:14 39:11 51:6  
53:23

**wrap** 52:21

**writing** 7:16

**written** 51:16 56:13

---

**Y**

---

**y'all** 52:7

**yard** 5:22 24:16 42:4 43:3 44:3,22

**year** 24:22 25:13

**year-long** 32:7

**years** 17:7 19:13

---

**Z**

---

**zoning** 7:12 23:24 32:17