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TOWN OF KIAWAH ISLAND  
BOARD OF ZONING APPEALS  
JANUARY 22, 2018 MEETING

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CASE NUMBER:           BZA-12-17-00233  
                              BZA-12-17-00234

DATE:                    JANUARY 22, 2018

TIME:                    4:00 PM

LOCATION:                 KIAWAH ISLAND TOWN HALL  
                              KIAWAH ISLAND, SOUTH CAROLINA

REPORTED BY:            AMY E. ST JAMES, CSR(MA)  
                              CLARK & ASSOCIATES, INC.  
                              CHARLESTON, SC 29415  
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A P P E A R A N C E S

BOARD MEMBERS PRESENT:

- Randy Gilmore
- Charles Larsen
- Scott Parker
- Ron Hacker
- Ben Farabee
- Wendy Kulick

COUNSEL:

- Dwayne Green

STAFF MEMBERS:

- John Taylor

ALSO PRESENT:

- Christopher Rose
- Gerald Messerman
- Gale Messerman
- Amanda Mole
- Richard Fishburn

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

2 MR. GILMORE: Ladies and gentlemen,  
3 the appointed hour is here. I'd like to call to  
4 order the January 22, 2018 meeting of the Town of  
5 Kiawah Island Board of Zoning Appeals. Hearing  
6 the case today is Charlie Larson, Scott Parker,  
7 Ron Hacker, Wendy Kulick, Ben Farabee and myself,  
8 Randy Gilmore. And we're joined today by Dwayne  
9 Green who is counsel for the town.

10 Our case rulings for this and any BZA  
11 meeting are available for public review and  
12 inspection during normal business hours at town  
13 hall.

14 Our first order of business today is to  
15 elect officers for the 2018 year. With that,  
16 Committee, I would love to hear nominations for  
17 chair from you.

18 MR. HACKER: I nominate Randy  
19 Gilmore.

20 MR. LARSEN: I second that.

21 MS. KULICK: I second it.

22 MR. GILMORE: Okay. Any other  
23 nominations? Any other nominations? I only have  
24 about \$500 in my pocket.

25 MS. KULICK: I move we close

1 nominations.

2 MR. PARKER: I second.

3 MR. GILMORE: All right. Thank you  
4 very much. Those opposed, say aye.

5 (No response.)

6 MR. GILMORE: Those in favor, say  
7 aye.

8 (All say aye.)

9 MR. GILMORE: All right.  
10 Understood.

11 MS. KULICK: I nominate Ron Hacker  
12 as vice chair.

13 MR. PARKER: Second.

14 MR. GILMORE: Any other  
15 nominations?

16 MR. PARKER: I move the nominations  
17 be closed.

18 MR. HACKER: Second.

19 MR. KULICK: Second.

20 MR. GILMORE: All those in favor,  
21 say aye.

22 (All say aye.)

23 MR. GILMORE: Ron, we have to quit  
24 doing this. Thank you, ladies and gentlemen.  
25 I'm most appreciative of your trust in my

1 abilities or our abilities.

2 At this time I'd like to explain the  
3 workings of the BZA to those people who are here.  
4 The Board of Zoning Appeals is a quasi-judicial  
5 body established to interpret and grant relief  
6 from the zoning ordinance. The Board of Zoning  
7 Appeals has jurisdiction over three types of  
8 cases: Appeals, variances and special  
9 exceptions.

10 Appeals are heard regarding  
11 administrative actions or decisions by zoning  
12 administrators. Variances may be granted when  
13 strict application of the zoning ordinance would  
14 cause an unnecessary hardship. This board's  
15 actions must be based on specific standards as  
16 contained in South Carolina Local Government  
17 Planning Enabling Act of 1994 and the town's  
18 zoning ordinance. Special exceptions are the  
19 third thing that we have a jurisdiction over:  
20 Allow the board to permit use if certain  
21 conditions as contained in the zoning ordinance  
22 are met.

23 A simple majority vote of the quorum  
24 present is required to grant a variance or  
25 overturn decisions of the zoning administrator in

1 an appeal or to grant special exceptions.

2 Because today's hearing is a public  
3 fact-finding meeting, we are in compliance with  
4 the Freedom of Information Act, South Carolina  
5 Code 6-29-70. Fifteen days prior to this  
6 hearing, an announcement was printed in the Post  
7 and Courier, a sign posted in and on nearby  
8 designated property, and a notice was mailed to  
9 the applicant or representatives, residents  
10 within 300 feet of the application and to the  
11 parties of interest. Persons, organizations and  
12 news media that have requested declarations of  
13 our meetings have also been notified. The  
14 Freedom of Information Act does not require  
15 notification of anyone other than the applicable  
16 parties of interest.

17 Our purpose today is for interested  
18 parties to be heard in order to assist the board  
19 in gathering evidence pertinent to each case. If  
20 the members of the board of the BZA feel the need  
21 for further information to clarify a case, the  
22 board has the authority to subpoena witnesses.

23 In addition to their testimony, our  
24 board has been presented written information  
25 submitted to the staff by the applicant or to

1 their agents for each case. This information is  
2 now considered to be evidence and is entered into  
3 the permanent record of this body. It is assumed  
4 that it is complete, true and accurate.

5 Also, we have been presented data  
6 assembled by the staff for the purpose of  
7 clarifying the location and the effect on  
8 surrounding property.

9 Our board is empowered to approve,  
10 approve with conditions or to deny requests. We  
11 are also authorized to defer a case should there  
12 be a need to obtain additional information.

13 If an applicant's request is approved  
14 for a special exception, a variance or an appeal  
15 of the decision of the zoning administrator, they  
16 must go to the town of Kiawah Island to apply for  
17 permits. Variances and special exceptions  
18 granted by the BZA are valid for 12 months after  
19 this meeting.

20 If an applicant's request is  
21 disapproved, they may wish to appeal the decision  
22 of this board concerning their case. Appeals  
23 must be addressed to the Circuit Court. South  
24 Carolina Code 6-29-820 states that the appeal  
25 must be filed by the applicant within 30 days

1 after the decision of the board is mailed to  
2 them. Failure to file an appeal within the time  
3 limit deprives the court jurisdiction to hear the  
4 matter.

5 Because this is a quasi-judicial body,  
6 everything said in this meeting must be complete,  
7 true and accurate. All the information provided  
8 to the BZA is considered evidence, and this board  
9 may clarify contempt of Circuit Court if false  
10 statements are made either in writing or orally.  
11 Because of this, each person who wishes to  
12 address the board will be sworn in.

13 In order to expedite this procedure,  
14 those wishing to speak please stand as a group,  
15 and Mr. Green will administer the oath.

16 (MULTIPLE ATTENDANTS, Sworn.)

17 MR. GILMORE: I shall now call case  
18 BZA 12-17-00233 at 56 River Marsh Lane. Staff  
19 will present facts pertinent to the case. I  
20 should then call the applicant to address the  
21 case. The applicant shall please stand, state  
22 their name and current address for the record  
23 before giving testimony. I will then ask for all  
24 those speaking either in favor or against the  
25 case and they shall follow the same procedure of

1 identifying themselves. Those people are limited  
2 to two minutes each. The applicant also has an  
3 additional two minutes to rebut. Thank you very  
4 much.

5 John, if you will, please, sir.

6 MR. TAYLOR: Before I get started,  
7 Mr. Chairman, I just wanted to share that with  
8 the two cases being for the same property and the  
9 fact pattern being the same, would it be okay if  
10 I share just the fact pattern for the cases and  
11 then come to the vote of the separate instances  
12 of each criteria separately for each case? I  
13 will just --

14 MR. GILMORE: You'll give us a fact  
15 pattern of both combined?

16 MR. TAYLOR: Combined so that --

17 MR. GILMORE: And then we'll  
18 discuss each case?

19 MR. TAYLOR: Correct.

20 MR. GILMORE: Thank you, sir.

21 MR. TAYLOR: Regarding both cases,  
22 this is in reference to BZA-12-17-00233 as well  
23 as BZA-12-17-00234. The applicant and property  
24 owners are Mr. and Mrs. Gerald and Gale  
25 Messerman. The representative will be Mr.

1 Christopher Rose. The subject property is 56  
2 River Marsh Lane with a TMS number of  
3 209-10-00-027. Subject property is located  
4 within the R-1 Residential Zoning District and  
5 the lot size is approximately 23,850 square feet,  
6 and that's highlands.

7           Regarding the first case, it's a  
8 variance request for the reduction of the  
9 required rear graphic yard setback for  
10 approximately 190 square feet of encroachment for  
11 a proposed rear deck. And the second case is  
12 regarding existing lot coverage overage by  
13 approximately 1.6 percent.

14           So the applicant, Mr. Christopher Rose  
15 of Christopher Rose Architects, is representing  
16 the property owners for those two particular  
17 variance requests. As stated, the subject  
18 property is located within the R-1 Residential  
19 Zoning District. Per Charleston County records,  
20 the existing structure was constructed in 2000,  
21 and the adjacent property to the south is also  
22 located within the R-1 zoning district, and the  
23 adjacent property to the east is actually located  
24 within the PR, Park and Recreation Zoning  
25 District. The subject property is under the

1 purview of the Kiawah Island Architectural Review  
2 Board.

3 The Town of Kiawah Island Land Use  
4 Planning and Zoning Ordinance requires a 50 feet  
5 front yard setback along River Marsh, 15 feet  
6 side setback, and between 30 and 70 feet rear  
7 yard graphic setback with an allowed maximum lot  
8 coverage of 33 percent for the subject property.  
9 There has been identified a 10-foot buffer area  
10 of the rear of the property. And the May 24,  
11 2017 survey shows that the OCRM Critical Line has  
12 marginally moved toward the river. With the  
13 current rear yard setback, the encroachment and  
14 current lot coverage for the existing structure  
15 is legally non-conforming. The existing lot  
16 coverage for the subject property is 34.4 percent.

17 Per the applicants' letter of intent,  
18 the applicant letter of intent states that our  
19 clients have requested a deck addition and  
20 balcony renovation located on the marsh view side  
21 of their home. Our intent is to demolish the  
22 existing floor deck and construct a new one at  
23 the approximate level of the existing floor.

24 The applicant has submitted to the  
25 Kiawah Island Architectural Review Board for

1 improvement review and setback variance review.  
2 And the Kiawah Island Architectural Review Board  
3 has granted the setback variance and  
4 conditionally approved the request for the  
5 addition. The Kiawah Island Architectural Review  
6 Board states, quote, the setback and lot coverage  
7 variances for the deck addition are approved  
8 given the OCRM Critical Line encroachment into  
9 the property and original placement of the home  
10 on the property to preserve a grove of Live Oak  
11 trees in the front of the home. The improvement  
12 of your home is approved to continue to permit  
13 submittal with the following comments and  
14 conditions, end quote.

15 Quote, the ARB has approved for the deck  
16 addition to encroach 3 feet further with 190  
17 square feet of area into the rear setback. The  
18 ARB also approved the revised elevation of the  
19 existing deck encroaching into the rear setback,  
20 end quote.

21 Quote, with these proposed changes in  
22 the mass of the rear of the home, the rear yard  
23 landscape needs to be updated to buffer the  
24 outdoor living spaces from the neighboring areas  
25 with the multi-layered native evergreen shrubs,

1 end quote.

2           You can see this is the aerial of the  
3 subject property in a little bit more context.  
4 It shows you the area at Rhett's Bluff and a few  
5 images of the actual subject property, the Live  
6 Oak that was spoke just before and the rear,  
7 existing rear deck. Here's an aerial bird's-eye  
8 view that somewhat shows a little bit more  
9 context looking towards the east and the adjacent  
10 lot, the rear of the subject property, also  
11 adjacent properties. This is the terminus of the  
12 River Marsh at the cul-de-sac there.

13           The BZA on January -- I'm sorry. On  
14 January 10th a site visit was conducted at which  
15 time the following determinations were made  
16 regarding the approval criteria for variances.  
17 And this will be the criteria for Case  
18 BZA-12-17-00233.

19           In regards to the first criteria, there  
20 are extraordinary and exceptional conditions  
21 pertaining to the particular piece of property.

22           Staff Response: There may be  
23 extraordinary and exceptional conditions  
24 pertaining to the property due to the irregular  
25 shape of the lot, the required setbacks and the

1 legal non-conforming status of the existing  
2 structure that encroaches into the required  
3 setback. The existing structure was established  
4 in 2000 per Charleston County records.

5 In addition, the applicants' letter of  
6 intent states, quote, my clients purchased the  
7 property in 2006 with an approval for a deck  
8 extension on this home. They were fully aware at  
9 the time of the purchase that the deck and part  
10 of the heated portion of the existing home was  
11 over the rear setback. This was their reasoning  
12 for gaining approval from the Kiawah Island  
13 Architectural Review Board prior to purchasing.  
14 There's an attachment in your packets referencing  
15 that particular letter from the ARB.

16 Criteria B: These conditions do not  
17 generally apply to the other property in the  
18 vicinity.

19 Staff Response: These conditions are  
20 unique to the subject property and may not  
21 generally apply to other properties in the  
22 vicinity. The subject property's lot shape is  
23 approximately 41 feet in width at the front lot  
24 line and approximately 170 feet in width at the  
25 rear of the lot. Existing structures in the

1 vicinity may or may not have similar  
2 encroachments based on the current setback  
3 standards. The subject property is located  
4 within the R-1 Residential Zoning District, and  
5 the adjacent property to the east is located  
6 within the PR, Park and Recreation Zoning  
7 District. There's an existing 10-foot buffer at  
8 the rear of the property that runs from the OCRM  
9 critical line towards the highland of the subject  
10 property.

11 Per the applicants' letter of intent,  
12 quote, we have included the subdivision plat in  
13 the submittal and two aerials showing the  
14 location of this home. These show the unique  
15 pie-shaped lot does not affect the neighbor the  
16 Fishburns, the Dolsons and the Johnsons. The  
17 adjacent neighbor to the east at 55 River Marsh  
18 has a greater than normal side setback due to the  
19 pie-shaped lot, end quote.

20 Criteria C: Because of these  
21 conditions, the application of this ordinance to  
22 the particular piece of property would  
23 effectively prohibit or unreasonably restrict  
24 utilization of the property.

25 Staff Response: The application of this

1 ordinance to the subject property would prohibit  
2 the construction of the requested rear deck  
3 addition, as both the existing structure and  
4 proposed modifications are located within the  
5 required graphic rear setback. However, it does  
6 not unreasonably restrict utilization of the  
7 property.

8 Per the applicants' letter of intent,  
9 quote, the approval of this variance would  
10 increase the utilization of the property. The  
11 area over the setback is to be cantilevered so it  
12 will not at the ground level intervene with the  
13 marsh/river edge, end quote.

14 Criteria D: The authorization of a  
15 variance will not be of substantial detriment to  
16 the adjacent property or to the public good, and  
17 the character of the zoning district will not be  
18 harmed by granting of the variance.

19 Staff Response: The authorization of  
20 the variance may not be of substantial detriment  
21 to the adjacent properties or the public good.  
22 With an existing rear lot setback encroachment,  
23 the proposed modifications extend the existing  
24 rear lot setback encroachment by approximately  
25 3 feet. Additionally, the two adjacent lots to

1 the east and west are currently vacant properties.  
2 The subject property contains mature vegetation  
3 screening the closest existing residence to the  
4 east. Per the applicants' letter of intent,  
5 quote, granting this variance would not harm the  
6 character of the zoning district as shown in  
7 Attachment C and D, end quote.

8 Criteria E: The Board of Zoning Appeals  
9 shall not grant a variance the effect of which  
10 would be to allow the establishment of a use not  
11 otherwise permitted in a zoning district to  
12 extend physically a non-conforming use of land or  
13 to change the zoning district boundaries shown on  
14 the official zoning map.

15 Staff Response: Granting of this  
16 variance would not allow the establishment of a  
17 use not otherwise permitted in this zoning  
18 district, extend physically a non-conforming use  
19 of land or change the zoning district boundaries.  
20 Per the applicants' letter of intent, quote, this  
21 variance would not change the use or zoning of  
22 the district.

23 Criteria F: The fact that the  
24 property may be utilized more profitably, should  
25 a variance be granted, may not be considered

1 grounds for a variance.

2           Staff Response: The BZA may not  
3 consider profitability when considering this  
4 variance request. Per the applicants' letter of  
5 intent, quote, this is not our rationale for  
6 criteria for hardship for this variance, end  
7 quote.

8           Criteria G: The need for the variance  
9 shall not be the result of the applicant's own  
10 actions.

11           Staff Response: The need for the  
12 variance may be the result of the applicant's own  
13 actions. Since the existing residence is a  
14 non-conforming structure, the existing structure  
15 could be maintained without the need for a  
16 variance. However, per the applicants' letter of  
17 intent, quote, this is not the result of our  
18 clients' actions since the house was purchased  
19 over the rear setback, end quote.

20           Criteria H: Granting of the variance  
21 will not be contrary to the public or  
22 neighborhood interest, nor will not adversely  
23 affect other property in the vicinity, nor  
24 interfere with the harmony, spirit, intent and  
25 purpose of these regulations.

1           Staff Response: Granting of this  
2 variance may not be contrary to the public or  
3 neighborhood interest, may not adversely affect  
4 other property in the vicinity, nor interfere  
5 with the harmony, spirit, intent and purpose of  
6 these regulations.

7           On November 13, 2017 the Kiawah Island  
8 Architectural Review Board conditionally approved  
9 the improvement review and setback review,  
10 variance request for the rear deck addition  
11 stating, quote, the setback and lot coverage  
12 variances for the deck addition are approved  
13 given the OCRM critical line encroachment into  
14 the property and original placement of the home  
15 to preserve a grove of Live Oak trees in the  
16 front of the house, end quote. Per the  
17 applicants' letter of intent, again, Attachment C  
18 and D and the site plan shows that this will not  
19 negatively affect the neighbors, neighborhood or  
20 vicinity.

21           And the final criteria: Granting of the  
22 variance does not substantially conflict with the  
23 comprehensive plan or the purposes of this  
24 ordinance.

25           Staff Response: Granting of the

1 variance may substantially conflict with the  
2 purposes of the ordinance. The applicant's  
3 proposed plans do change the overall lot coverage  
4 percentage of the existing structure to the  
5 property. The proposed plans calls for  
6 approximately 374 square feet addition of rear  
7 deck to the existing residence increasing the  
8 overall lot coverage from 34.4 percent by  
9 approximately 1.6 percent to 36 percent for the  
10 subject property for which the applicant is also  
11 seeking a variance. The maximum allowable lot  
12 coverage for the subject property is 33 percent.

13           However, granting a variance may not  
14 substantially conflict with the comprehensive  
15 plan as the Comprehensive Plan, Housing Element  
16 VIII, Goals 1, Implementation Strategy D states,  
17 quote, provide mechanisms to permit flexibility  
18 and innovation in residential project design to  
19 promote land use efficiency and environmental  
20 protection, end quote. Per the applicants'  
21 letter of intent, this variance will not conflict  
22 with the ordinance or comprehensive plan.

23           I'll now go through the criteria for the  
24 second case which is BZA-00234, and these items  
25 still should be voted on separately.

1           Regarding BZA-12-17-00234, the BZA may  
2 grant a variance only if exceptional  
3 circumstances exist and where practical  
4 difficultly and unnecessary hardship is so  
5 substantial, serious and compelling that  
6 relaxation of general restrictions ought to be  
7 granted.

8           Regarding Criteria A, Staff Response:  
9 There may be extraordinary and exceptional  
10 conditions pertaining to the property due to the  
11 irregular shape of the lot and due to the impacts  
12 of its legal non-conforming status because the  
13 existing lot coverage is 34.4 percent. Per  
14 Charleston County records, again, the existing  
15 primary structure was constructed in 2000, and  
16 the lot size of the subject property is  
17 approximately 23,850 square feet which is smaller  
18 than adjacent property to the west and adjacent  
19 property to the east containing approximately .2  
20 acres of highland.

21           The applicants' letter of intent states,  
22 quote, my clients purchased the property in 2006  
23 with an approval for a deck addition of the home.  
24 They were fully aware at the time of the purchase  
25 that the deck and the part of the heated portion

1 of the existing home was over the rear setback.  
2 This was their reason for gaining approval from  
3 the Kiawah Island Architectural Review Board  
4 prior to purchasing.

5           Regarding Criteria B, these conditions  
6 are unique to the subject property and may not  
7 generally apply to other properties in the  
8 vicinity. Of the 21 lots along River Marsh Lane,  
9 86 percent of the lots or 18 properties are  
10 larger in size than the subject property. The  
11 subject property is also located along the  
12 cul-de-sac of River Marsh Lane.

13           Per the applicants' letter of intent, we  
14 have included the subdivision plat in the  
15 submittal and two aerials showing the location of  
16 this home. These show the unique pie-shaped lot  
17 that does not affect the neighbor the Fishburns,  
18 the Dolsons and the Johnsons. The adjacent  
19 neighbor to the east at 55 River Marsh has a  
20 great normal side setback due to the pie-shaped  
21 lots.

22           Criteria C: The application of the  
23 ordinance to 56 River Marsh Lane would prohibit  
24 the ability to modify the proposed deck without  
25 eliminating lot coverage elsewhere under the

1 current maximum lot coverage standards. The  
2 ordinance grants maximum lot coverage of 33  
3 percent for lots greater than 12,000 square feet.  
4 Per the applicants' letter of intent, the  
5 approval of this variance would increase the  
6 utilization of the property. The area over the  
7 setback is to be cantilevered so it would not at  
8 the ground level intervene with the marsh and  
9 river edge.

10 Criteria D: The authorization of a  
11 variance may not be of substantial detriment to  
12 the adjacent properties or the public good. The  
13 subject property is adjacent to a vacant  
14 non-residential, undevelopable lot to the east  
15 zoned PR, Park and Recreation, and a vacant lot  
16 to the west within the R-1 Residential Zoning  
17 District. Per the applicants' letter of intent,  
18 quote, granting this variance would not harm the  
19 character of the zoning district as shown in  
20 Attachment C and D, end quote.

21 Criteria E, Staff Response: Granting of  
22 the variance would not allow the establishment of  
23 a use not otherwise permitted in the zoning  
24 district, extend physically a non-conforming use  
25 of land or change the zoning district boundaries.

1 The use of this project does not change and will  
2 remain within the R-1 Residential Zoning  
3 District. Per the applicants' letter of intent,  
4 this variance would not change the use or zoning  
5 of the district.

6 Criteria F, Staff Response: The BZA may  
7 not consider profitability when considering this  
8 variance request. Per the applicants' letter of  
9 intent, quote, this is not our rationale for  
10 criteria for hardship for the variance, end  
11 quote.

12 Criteria G, Staff Response: The need  
13 for the variance may be the result of the  
14 applicant's own actions. Since the existing  
15 structures are legally non-conforming, the  
16 existing footprint could be maintained or reduced  
17 by removing lot coverage from elsewhere on the  
18 property without the need for this particular  
19 variance request. However, per the applicants'  
20 letter of intent, quote, this is not the result  
21 of our clients' actions since the house was  
22 purchased over the rear setback, end quote.

23 Criteria H, Staff Response: Granting of  
24 the variance may not be contrary to the public or  
25 neighborhood interest, may adversely affect other

1 property in the vicinity, nor interfere with the  
2 harmony, spirit, intent and purpose of these  
3 regulations. On November 13, 2017 the Kiawah  
4 Island Architectural Review Board conditionally  
5 approved the improvement review and setback  
6 variance for the rear deck addition stating,  
7 quote, the setback and lot coverage variances for  
8 the deck addition are approved given the OCRM  
9 critical line encroachment into the property and  
10 original placement of the home on the property to  
11 preserve a grove of Live Oak trees in the front  
12 of the house, end quote. Per the applicants'  
13 letter of intent, quote again, Attachment C and D  
14 and the site plan show that this will not  
15 negatively affect the neighbors, neighborhood or  
16 vicinity.

17 Final criteria, Staff Response:  
18 Granting of the variance may conflict with the  
19 comprehensive plan and the purposes of this  
20 ordinance. The proposed plan may have  
21 opportunity to reduce lot coverage elsewhere on  
22 the subject property as modifying the shape of  
23 the existing elevated deck or raised planters to  
24 become more consistent with the required lot  
25 coverage of the R-1 Residential Zoning District.

1           However, the authorization of variance  
2 would only grant site specific permission to  
3 increase the lot coverage of the subject property  
4 as a result of the proposed rear deck addition.  
5 Per the applicants' letter of intent, quote, this  
6 variance will not conflict with the ordinance of  
7 the comprehensive plan, end quote.

8           Regarding the Board of Zoning Appeals  
9 actions with those, each of the board of appeal  
10 actions are separate, so we can take either one  
11 or the other first.

12           MR. GILMORE: John, can we combine  
13 our questions? Anyone have questions for John?

14           MR. HACKER: Why don't we divide it  
15 on first and second.

16           MR. GILMORE: Excuse me?

17           MR. HACKER: Why don't we have the  
18 questions on the first --

19           MR. GILMORE: Okay. That's fine.  
20 Questions on the first and questions on the  
21 second. That's fine.

22           MR. FARABEE: I have questions  
23 on -- that cover both. They're general  
24 questions. Can I ask those now?

25           MR. GILMORE: Go ahead, sir.

1 MR. FARABEE: Okay. East and west  
2 designations seem to be confused in the write-up.  
3 Is lot 55 east or west? It said both. So I mean  
4 one time it says east, sometimes it says west.  
5 And is the --

6 MR. TAYLOR: I just want to make  
7 sure --

8 MR. FARABEE: And is 55 occupied?  
9 It looked occupied when I was there today. It  
10 looked like there was a house on it.

11 MR. TAYLOR: A house on it?

12 MR. FARABEE: Yeah, it looked like  
13 a house on it. It's says it's called vacant.

14 MR. TAYLOR: Oh, I know exactly.  
15 So the vacant is being identified as this small  
16 piece of residual land. So that would be --

17 MR. FARABEE: I'm sorry. Say that  
18 again. It's the vacant part?

19 MR. TAYLOR: You can somewhat see  
20 it here. This would be where that house --

21 MR. FARABEE: Yeah, that's where  
22 the house is, right?

23 MR. TAYLOR: And then there's an  
24 adjacent parcel that shows a small piece of  
25 residual. So that's being identified as a vacant

1 lot. So it will be this and --

2 MR. FARABEE: It's not a lot, is  
3 it?

4 MR. TAYLOR: It's a piece of  
5 residual land.

6 MR. FARABEE: How wide is it?

7 MR. TAYLOR: Approximately, I  
8 think, 10 to 12 feet.

9 MR. FARABEE: But there is a house  
10 on Lot 55?

11 MR. TAYLOR: Yes, this right here,  
12 on this lot.

13 MR. FARABEE: It was confusing to  
14 me the way the write-up read. Also, you use the  
15 term graphic setback as opposed to just setback.  
16 So can you define the difference?

17 MR. TAYLOR: Within the two areas  
18 of developed and undeveloped lands on Kiawah,  
19 when the developed lands -- they all were  
20 identified through either -- through the ARB or  
21 at the time of the lot being generated  
22 specifics -- specific setbacks for each lot, and  
23 so some of those lots were either adjacent to  
24 maybe a critical area so it was kind of maybe  
25 hard to define it at the time. So it was more

1 clearly defined by a graphic.

2 Now, you can see in your packet there  
3 would be that -- that image right before the map,  
4 the sheet right before the map in your packet, it  
5 shows that -- that would be the graphic, and  
6 that's what we would use to map out the specific  
7 setback for each lot.

8 MR. FARABEE: Okay. You use the  
9 lot area and the highland area numbers  
10 interchangeably between one and two. You call  
11 the highland number the lot area in case two. In  
12 case one you identified each of them. So --

13 MR. TAYLOR: Yeah, I probably  
14 should have just -- they're the same for the lot.  
15 I probably should have been consistent in saying  
16 it for the first case and the second case. I  
17 think that was probably just me in the  
18 presentation.

19 MR. FARABEE: So what's the number  
20 they're held accountable to for coverage?

21 MR. TAYLOR: The highland is  
22 what --

23 MR. FARABEE: Only the highland  
24 number?

25 MR. TAYLOR: Yes. So the 23,000

1 number, that is what we measured the lot coverage  
2 from.

3 MR. FARABEE: Okay. So the second  
4 one where you say lot coverage is 23,000, you  
5 mean the highland area?

6 MR. TAYLOR: Yes.

7 MR. FARABEE: Okay. And what  
8 impact does the 10-foot buffer zone mean to us in  
9 deciding that today?

10 MR. TAYLOR: Can you repeat that  
11 one more time?

12 MR. FARABEE: You got a 10-foot  
13 buffer zone which was mentioned several times,  
14 and what does that mean to us today in making our  
15 decision?

16 MR. TAYLOR: Well, that area's --  
17 can't be buildable and that's sort of a  
18 separation between the critical line and sort of  
19 the buildable area for a lot. So within this  
20 area here, you wouldn't be able to build.  
21 When --

22 MR. GILMORE: But it may very well  
23 be an area where utility lines would get buried.  
24 It is a, it's a piece of property that is free  
25 from construction skyward but they may very well

1 put a sewer line in there, power lines  
2 underground, whatever --

3 MR. FARABEE: Is there any  
4 restriction what the residents can do with it?

5 MR. TAYLOR: Yeah, I think  
6 there's -- the ARB may be able to clarify that a  
7 little bit better, but there are some  
8 restrictions, particularly whether it's height  
9 restrictions --

10 MR. FARABEE: For vegetation you're  
11 talking about?

12 MR. TAYLOR: -- for vegetation or  
13 whether it's for low lying deck, like a deck or  
14 something of that nature.

15 MR. FARABEE: And is that in the  
16 purview of the ARB?

17 MR. TAYLOR: Yes.

18 MR. FARABEE: And one more  
19 question. The approval that they say that they  
20 got 12 years ago for approving the changes, the  
21 renovations, approval from whom? The BZA approve  
22 that 12 years ago?

23 MR. TAYLOR: No, the ARB approved --

24 MR. FARABEE: ARB approved it?

25 MR. TAYLOR: The ARB approved, but

1 they never came before the BZA.

2 MR. FARABEE: Okay.

3 MR. PARKER: I have a question that  
4 follows up to that. The only documentation we  
5 see in this packet is actually just an e-mail  
6 from Amanda to Ginny Larence who was the agent at  
7 the time that says the board approves of the  
8 variance for the currently proposed open deck  
9 renovation, but there's nothing that talks about  
10 what the nature of that renovation that was  
11 submitted to the ARB at that time was.

12 MR. TAYLOR: So I didn't have  
13 anything that was submitted on that first -- the  
14 first submittal, but the applicant submitted --

15 MR. PARKER: The one that they --  
16 in whatever this was. There's not a date on  
17 this. Oh, yeah, there is. On February of 2006,  
18 the only thing that's referenced here is this  
19 e-mail from Amanda to Ginny Larence who was the  
20 real estate agent who says the ARB says you may  
21 make the proposed changes, but there's nothing  
22 that says what those proposed -- what were the  
23 submitted proposed changes. Are they the extent  
24 of this deck or was it something different? Was  
25 it something smaller?

1 MR. TAYLOR: That may be a question  
2 of the applicant, but they -- what we're going  
3 off would be the --

4 MR. PARKER: Right. I understand  
5 what we're going off of is this. I'm just  
6 curious.

7 MR. TAYLOR: Yeah, I'm unsure what  
8 the original submittal to the ARB would have  
9 been.

10 MS. KULICK: John, under staff  
11 review on Page 2 of 5 at the top, it says in  
12 quotations, with the proposed change in the mass  
13 of the rear of the home, the rear yard landscape  
14 needs to be updated to buffer the outdoor living  
15 spaces from neighboring areas with multi-layered  
16 native evergreen shrubs. There are no rear  
17 neighbors. There are side neighbors, but there  
18 are no rear, and there will never be any rear  
19 neighbors. So I don't quite understand that.

20 MR. TAYLOR: That's coming  
21 directly -- sorry, Amanda, but that's coming  
22 directly from the ARB's definition of where that  
23 location of the deck would be. So they're just  
24 looking at it from whether it be front, side,  
25 rear.

1 MS. KULICK: So that's a question  
2 for Amanda?

3 MR. TAYLOR: As in there are no  
4 rear -- they're overlooking a marsh, so there  
5 wouldn't be --

6 MS. KULICK: That's my point.

7 MR. TAYLOR: Yeah.

8 MS. KULICK: Okay. Thank you.

9 MR. GILMORE: Charlie?

10 MR. LARSEN: You talk about the  
11 rear setback being 30 to 70. What is in place  
12 that makes the line go through the middle of the  
13 deck? Is that 30 feet from something, or is it  
14 70 feet from something?

15 MR. TAYLOR: Well, if we were to  
16 look at the -- it's not on this image here, and I  
17 don't have a graphic of it in the presentation,  
18 but on your -- in your packets, that image before  
19 the map, it would show where that 30-foot mark --  
20 basically the 30-foot mark is on one end of the  
21 rear, and the other end is more of a 70, so it  
22 would cascade between a 30 to 70. That's why I  
23 left it at between 30 and 70. So I went in --  
24 it's showing, I believe, 30 on this side and I  
25 think 70 on this end. So from the end of the

1 lot, the rear of the lot here, it would be  
2 approximately 70 feet and then the setback on  
3 this side is approximately 30 feet from the rear.

4 MR. LARSEN: Put your light on the  
5 middle of the deck. The line there is what, 30  
6 feet from something?

7 MR. TAYLOR: Yes, that's marking 30  
8 feet.

9 MR. FARABEE: From one side there.

10 MR. LARSEN: From --

11 MR. GILMORE: From --

12 MR. LARSEN: The east end.

13 MR. HACKER: From the buffer.

14 MR. LARSEN: Oh, I get it. Okay.

15 MR. TAYLOR: That's actually -- I  
16 think this is -- would be off of the buffer here,  
17 but if you were to measure from this point to the  
18 actual end critical line or where we would  
19 measure from -- what we measure as the setback to  
20 here, that would be approximately 70 feet.

21 MR. LARSEN: So in some places it's  
22 30, in some places it's 70?

23 MR. TAYLOR: Correct.

24 MR. LARSEN: And who determines  
25 that?

1 MR. TAYLOR: That's in the --  
2 according to the graphic of how we determine the  
3 setback for this particular lot.

4 MR. PARKER: I have a question  
5 about the space that's marked 10 feet 10 inches  
6 to the deck there in the buffer zone.

7 MR. LARSEN: By the stairs?

8 MR. PARKER: Yeah. Is that saying  
9 that from where the deck is currently or where  
10 from the deck is proposed to be out to that mark  
11 is 10 feet 10 inches?

12 MR. TAYLOR: That would be from the  
13 end of this deck --

14 MR. PARKER: Yeah.

15 MR. TAYLOR: -- to this line. That  
16 would be from -- this line is actually showing  
17 the old critical line.

18 MR. PARKER: Right.

19 MR. TAYLOR: So that would be 10  
20 feet from the old critical line.

21 MR. PARKER: Okay, but the critical  
22 line now has it moved out. So where's this  
23 10-foot buffer area?

24 MR. TAYLOR: 10-foot buffer area  
25 would be this line.

1 MR. PARKER: Okay. And yet you're  
2 showing -- okay. I get it. So we're about --  
3 we're just about a foot or 10 inches into that  
4 buffer zone.

5 MR. TAYLOR: Yes.

6 MR. PARKER: Okay.

7 MR. GILMORE: Questions, lady and  
8 gentlemen, on lot coverage issue for John?

9 (No response.)

10 MR. GILMORE: Thank you, John.

11 Appreciate your hard work.

12 Mr. Rose, would you like to speak for  
13 your client? Thank you, sir.

14 MR. ROSE: Hi, Christopher Rose,  
15 Christopher Rose Architects.

16 MR. GILMORE: Mr. Rose, can you  
17 take the podium. The mic will help her.

18 MR. ROSE: Yes. No problem.

19 MR. GILMORE: Thank you, sir.

20 MR. ROSE: So to clarify -- and  
21 Amanda can supercede me, but the 10-foot area  
22 that people were talking about is an area,  
23 basically it's a filter that when -- way back  
24 when Kiawah negotiated with the Coastal Council,  
25 they required a buffer, kind of a filter for any

1 oil on the side or whatever that it could be --  
2 you know, and that would be that 10-foot buffer.  
3 And so the 10-foot buffer that we're showing is  
4 unchanged, but what has changed was the -- that  
5 original 30 feet was from the old critical line,  
6 and so the critical line now in 2017 has moved  
7 out toward the river, so it's actually greater.  
8 That 10-foot was just showing where the old  
9 critical line proposed to the new addition.

10 Our new deck is extending 3 feet beyond  
11 toward the river from where it is presently, like  
12 I said. And you can see the other mark I had was  
13 from -- the critical line is actually moved about  
14 20 feet out, so we've actually got a lot more  
15 wiggle room there for the structure. And we're  
16 cantilevering that 3-foot area along parallel to  
17 the river in the back.

18 Also, you know, by consolidating the  
19 deck addition within the center part of the  
20 structure, we're trying not to -- you know, in  
21 fact, if we pull it back, you know, that 30 feet,  
22 you know, where -- to make it compliant and make  
23 it a long skinny deck, it would make it wider,  
24 and it would be more to the Lot 55 to the east.  
25 It would actually encroach more toward that way.

1 So keeping it where it is, we're trying to  
2 consolidate in the center portion of the house,  
3 having the structure of the house kind of --  
4 structure it.

5 But then as we said, you see that stucco  
6 wall that's marked on the site plan, that curved  
7 stucco wall, there's huge Live Oak there, and  
8 evidently when the original house was set, you  
9 know, was staked out on the site they agreed to  
10 push the house forward over that, that rear  
11 setback. So it was prior to the Messermans  
12 purchasing the house. That's why they bought the  
13 house knowing that actually part of their dining  
14 room is technically over that 30-foot setback so  
15 that they -- and that's why they got the letter  
16 from the ARB. I guess Amanda can talk specifics,  
17 but I think it was more just the concept of if  
18 they could add on to the deck that is already  
19 over the rear setback at that time.

20 MR. HACKER: Mr. Rose, is the new  
21 part of the deck going to be open underneath like  
22 the existing deck, just have supports on the  
23 outside?

24 MR. ROSE: Right. Well, the  
25 existing deck's going to have the lattice below

1 it like the present, and the 3-foot addition are  
2 going to be brackets, so that will be open below.

3 MR. HACKER: That will be  
4 cantilevered out. Although, you're going to have  
5 them -- it will be open underneath it, but you'll  
6 have some kind of wooden lattice work in front of  
7 it?

8 MR. ROSE: Where the existing  
9 present deck is, yes, but not the 3 feet out.  
10 The 3 feet out would be, you know, cantilevered,  
11 so it will just be at the deck level.

12 MR. HACKER: Well, what I'm really  
13 asking is you're not building a wall --

14 MR. ROSE: We are not building --

15 MR. HACKER: -- you know, 3 feet  
16 out?

17 MR. ROSE: Right. There's nothing  
18 vertical from the ground 3 feet out from the  
19 present deck other than it's up at the deck  
20 level.

21 MR. HACKER: But even with the  
22 current deck, are you going to make that wall  
23 in --

24 MR. ROSE: No.

25 MR. HACKER: -- in other words,

1 that still will be open behind the lattice?

2 MR. ROSE: That was part of our --  
3 when we went through the review board, that was  
4 some of the concessions, and it also would allow  
5 us to have -- you know, the Messermans didn't --  
6 have removed the landscaping there in, you know,  
7 in the prospects of hopefully doing this, and  
8 then they'll be putting the -- part of the  
9 criteria of the approval from the review board  
10 was coming back native plant, you know, in that  
11 area. And that 10-foot buffer, that's something  
12 else that needs to be native plant material in  
13 that buffer as well too since it's so close to  
14 the marsh.

15 MS. KULICK: Chris, under the  
16 staff -- I mean this may be a question for John  
17 that I should have asked, but under the staff  
18 response for (4)G for the second variance  
19 request, it says, the existing footprint could be  
20 maintained or reduced by removing lot coverage  
21 from elsewhere on the property. Where would that  
22 be?

23 MR. ROSE: Only thing I guess we  
24 could do is remove part of the driveway but  
25 that's -- I mean --

1 MS. KULICK: Under G. Okay. Thank  
2 you.

3 MR. ROSE: I mean, or make that --  
4 or we could make the driveway pervious, and which  
5 technically the review board counts impervious  
6 and pervious as the same, so it really -- they  
7 have allowed in the past as a remediation measure  
8 for lot coverage but --

9 MR. HACKER: One of the things that  
10 happens with that lot coverage is that the  
11 driveway is 2,491 square feet which is 30 percent  
12 of the lot coverage. So it's because the house  
13 is so far back there's an awful lot of driveway,  
14 and that's what's causing the -- it's not the  
15 building causing this, it's the fact that the  
16 house is so far back and it's all driveway.

17 MR. ROSE: And to preserve that  
18 Grand Oak in the front there too. So it's a  
19 situation you get on a flag lot where you've got  
20 the long skinny portion of the property.

21 MR. GILMORE: Mr. Rose, point of  
22 clarification for me. On the drawing it shows a  
23 10-foot buffer area. Now that the OCRM line is  
24 shifted toward the Kiawah River, does that mean  
25 that the 10-foot buffer shifts with it?

1 MR. ROSE: Yes.

2 MR. GILMORE: Okay. So -- all  
3 right.

4 MR. PARKER: So that goes back to  
5 what I was trying to get to, is that this is not  
6 announced, not in that 10-foot buffer zone?

7 MR. ROSE: Correct.

8 MR. PARKER: Okay. So the buffer  
9 doesn't have anything to do with any of this  
10 anymore?

11 MR. ROSE: No. Like I said, the  
12 buffer was kind of a negotiation between the  
13 developers and the OCRM about creating a filter  
14 to the marsh, at least that's what I --

15 MR. GILMORE: Excuse me one second.  
16 At this point I see how far the lines move back.

17 MR. PARKER: See, here's the new --  
18 this is my question.

19 MR. GILMORE: That's the old.

20 MR. PARKER: No, that says new.

21 MR. GILMORE: Okay, new.

22 MR. PARKER: Yeah. See, that says  
23 new. Here's the old right here.

24 MR. GILMORE: Right. Got you.

25 MR. PARKER: So, see it has moved,

1 and you know, he's saying it's moved out that  
2 way.

3 MR. GILMORE: You're right. It's  
4 just nothing --

5 MR. LARSEN: But in some places  
6 it's even --

7 MR. PARKER: Yeah, but this is the  
8 only spot here that it's really close to the old  
9 buffer.

10 MR. ROSE: The reason I have that  
11 10-foot 10, if you look at the old OCRM, that is  
12 the pinch point on the rear of the property.  
13 That is the closest point where the OCRM comes to  
14 where the addition was. So even using the old  
15 OCRM, we're still 10.5 inches in. We've got that  
16 10-foot buffer already without --

17 MR. LARSEN: Okay. But even though  
18 the buffer has moved, the setback line is still  
19 in the middle of the deck.

20 MR. ROSE: Correct.

21 MR. LARSEN: So does it matter if  
22 it's moved if it's already over the setback in  
23 the first place?

24 MR. ROSE: Well, that's why we're  
25 asking for a variance.

1 MR. PARKER: Yeah, that's why  
2 they're here, because I mean it's legally  
3 non-conforming right now, and they want to make  
4 it slightly more legally non-conforming.

5 MR. ROSE: The Messermans basically  
6 purchased a non-conforming piece of property  
7 unfortunately.

8 MR. PARKER: Yeah. Now, I have a  
9 question now for John, and this has to do with  
10 lot coverage because I always think about lot  
11 coverage predominantly in terms of percolation  
12 rates and ability to do that. Since he's going  
13 to be cantilevering this and there's not going to  
14 be any hard structure down on the ground, is that  
15 really increasing the lot coverage, or is that  
16 just a semantic thing?

17 MR. TAYLOR: It's basically how we  
18 calculate lot coverage. It may not physically --

19 MR. PARKER: It doesn't have a  
20 practical effect then?

21 MR. TAYLOR: Right.

22 MR. ROSE: Well, the review board  
23 set because -- it's like IRS code. Every time --  
24 like the pervious, it used to be pervious  
25 driveways didn't count. So there were certain

1 people on the island, they did pervious driveways  
2 so they could build a bigger house. Well, ARB  
3 kept trying to keep ahead of these people doing  
4 that so that -- and so there was an architect  
5 that did a foundation survey, and they  
6 cantilevered the house out a couple feet around  
7 which technically it was a bigger house than what  
8 was allowed, but if you looked at the foundation  
9 survey, it was fine.

10 So the ARB at that point said any  
11 cantilever portion has to be considered part of  
12 the deck -- covered, that area.

13 MR. GILMORE: Mr. Rose, what's the  
14 decking surface going to be?

15 MR. ROSE: Pardon?

16 MR. GILMORE: What is the decking  
17 surface going to be?

18 MR. ROSE: It's going to be Ipe.

19 MR. GILMORE: Ipe. So it's not  
20 stone?

21 MR. ROSE: Wood.

22 MR. GILMORE: Water's going to go  
23 through it?

24 MR. ROSE: Correct.

25 MR. GILMORE: Any other questions

1 for Mr. Rose? Anyone else wishing to speak?

2 Yes, sir, please. Please, if you would.  
3 If you'd state your name and address, please.

4 MR. FISHBURN: I am Richard  
5 Fishburn, and I'm actually the person who lives  
6 at the 55 mystery house next door. The  
7 Architectural Review Board for 40 years has  
8 really had a program of design with nature, and I  
9 think we all would agree they've done an  
10 outstanding job on the island with that program.  
11 But one of the realities is when the trim of a  
12 house is bright white like your shirt down there,  
13 it's really hard to hide that particular area  
14 from your neighbors.

15 We when we built our house took care in  
16 terms of how we sited and what our sight lines  
17 were going to be. We have 14 feet of windows on  
18 two highly used areas of the house that overlook  
19 this particular decking, and our concern is that  
20 the increased size is going to supercede the  
21 efforts we did to shield it with high canopy and  
22 positioning of our property.

23 So I would ask two things for you to  
24 consider when you are looking at the variance.  
25 The first is can we do something to take away the

1 glare of the light, and we ask that any variance  
2 be conditional on the railings and the staircase  
3 being a natural color, preferably the color of  
4 the house, or that the railings be metal so that  
5 they blend back into the house and they're not as  
6 visible from us or from people who are out on the  
7 river.

8           The second thing that I would ask when  
9 either the Architectural Review Board or this  
10 committee is looking at this, there is a  
11 conditioning of landscaping. We would ask that  
12 in your approval be conditional no landscaping  
13 being done in the residual area. Our  
14 understanding of that residual area is at one  
15 time there was a thought of building a bike path  
16 from the cul-de-sac over to the River Club, and  
17 that was eliminated once the sand coulee was  
18 built. There has already been removal of natural  
19 growth in the residuary on the road side, and our  
20 concern is that if accidentally that happened  
21 with the landscaping companies, instead of  
22 shielding it from the neighbor, it would be more  
23 apparent from the neighbor and we would be  
24 looking at that white mass.

25           MR. FARABEE: Have you asked this

1 of ARB?

2 MR. FISHBURN: We have not asked  
3 this of ARB. I'm not sure who has the authority  
4 between you granting the variance and the  
5 Architectural Review Board. The issue could be  
6 simply dealt with by an agreement that the  
7 railings and the staircase be done in a natural  
8 color throughout the house or in a metal color  
9 and the issue goes away.

10 MR. GILMORE: Questions? Thank you  
11 very much.

12 MR. FISHBURN: Thank you.

13 MR. FARABEE: Can I ask a  
14 procedural question? Is this the determination  
15 of the ARB, these things he's asked?

16 MR. GILMORE: Well, the ARB is  
17 going before us in --

18 MR. FARABEE: Huh?

19 MR. GILMORE: The ARB is going to  
20 be in front of us in just a second.

21 MR. FARABEE: She is? She didn't  
22 stand up to be sworn.

23 MR. PARKER: She didn't stand up.

24 MS. KULICK: Amanda didn't --

25 MR. GILMORE: Amanda didn't stand

1 up?

2 MR. FARABEE: No, she didn't.

3 MS. KULICK: Uh-uh.

4 MR. PARKER: It's not too late.

5 MR. HACKER: We can swear her in.

6 MR. GILMORE: We may swear her in.

7 MR. FARABEE: We'll have to swear  
8 her in.

9 MR. GREEN: I can swear her in  
10 very quickly.

11 MR. GILMORE: I know. Just give me  
12 one second. Mr. Rose, do you have any questions  
13 of the gentleman?

14 MR. ROSE: No, sir.

15 MR. GILMORE: Thank you. Thank  
16 you, sir. Appreciate it very much. Amanda,  
17 would you please rise and be sworn in by Mr.  
18 Green?

19 MR. FARABEE: Mr. Fishburn, do you  
20 have all this in writing somewhere? I mean we  
21 didn't -- do you have all this written down  
22 somewhere, your request?

23 MR. FISHBURN: I can. I don't, but  
24 I could.

25 MR. FARABEE: Okay. I'm just

1 saying we haven't seen this from you, and that's  
2 why -- so we need to process that is all I'm  
3 saying.

4 (AMANDA MOLE, Sworn.)

5 MS. MOLE: So I'm happy to answer  
6 questions, or I made a few notes for some of the  
7 other questions that came up if you want me just  
8 to go over those real quick. So I will confirm  
9 Chris' assessment of the storm water filter  
10 buffer. It is an agreement between the developer  
11 and OCRM to have a space that only enhancement  
12 with native vegetation is done aboveground in  
13 order to keep fertilizer and other sod-related  
14 issues from contaminating the marsh. And so when  
15 we look at landscape reviews that are adjacent to  
16 the marsh, whatever that distance of storm water  
17 filter buffer is, we do not allow for sod or  
18 other non-natives to encroach into it. So that  
19 is its purpose. So that was one.

20 There was a question about the graphic  
21 setbacks, and just to sort of reiterate what John  
22 was saying about the -- many setbacks were  
23 determined graphically by the developer in the  
24 past and sometimes continue to be done. And in  
25 2008 all of the existing graphics were adopted by

1 the town as being the town setback as well. So  
2 that is -- there are table setbacks for some  
3 properties, and then there are graphic setbacks  
4 for others, and they're all included in Article  
5 (12)G, I think is what it is.

6 And then there was a third question  
7 about the ARB's requirement for landscape at the  
8 rear of the property. Part of that was -- the  
9 reason we would require landscape at the rear is  
10 because we do have foundation planting  
11 requirements all around the house. So when they  
12 adjust the rear, we would ask for that to still  
13 be, you know, enhanced. But then the other part  
14 of that is to require any buffer from neighboring  
15 views from the sides, and we would expect that  
16 buffer to be completely handled on the property  
17 and not encroach into residual area. Yes?

18 MR. LARSEN: I have a question  
19 about the 2006 e-mail and Barbara's letter on  
20 November 13th.

21 MS. MOLE: Yes.

22 MR. LARSEN: Because there have  
23 been numerous times where the ARB has approved  
24 something that's within a setback or going over  
25 the minimum 33 or 34, whatever. Each time that

1 happens in the approval, the ARB says, however,  
2 you also have to get approval from the BZA.

3 MS. MOLE: Yes, that's included in  
4 the --

5 MR. LARSEN: And I don't see that  
6 in Barbara's letter.

7 MS. MOLE: It's there. I don't  
8 know if it was quoted in John's comments, but  
9 it's there.

10 MR. LARSEN: Okay. Now, would that  
11 have also been in the 2006 letter?

12 MS. MOLE: The 2006 e-mail was more  
13 of a presale question. It was not an official --  
14 you know, there was not an official submittal to  
15 the review board. It was a read on whether a  
16 variance would be requested -- allowed or not.  
17 So we would not have gone to that next step with,  
18 you know, with a question, whereas the November  
19 2017 was an actual submittal to the ARB with --  
20 you know, it was more official. Like I said,  
21 there was more of an official reply to it.

22 MR. LARSEN: So 2006 was not an  
23 official approval?

24 MS. MOLE: Well, it was a presale  
25 question that was clarified in an e-mail as

1 opposed to the -- as opposed to an actual  
2 improvement submittal sent in to the review  
3 board. And also, and in all fairness, too, the  
4 ARB's variance review process has become much  
5 more rigid in recent years. So 11, you know, 12  
6 years ago, it may not have been quite as  
7 efficient as it is now.

8 MR. PARKER: Structured is probably  
9 a better word than --

10 MS. MOLE: Structured.

11 MR. PARKER: Yes.

12 MS. MOLE: Structured. It is more  
13 structured now certainly.

14 MR. PARKER: I have a point of  
15 clarification now between you and John because  
16 this issue has come up before this body before.  
17 When somebody comes and opposes or speaks out  
18 wanting something done from an esthetics point of  
19 view that does not really affect what the BZA's  
20 strict charter is, you know, which is only to  
21 look at the lines and coverage and that sort of  
22 stuff, and it's got nothing to do with, you know,  
23 painting it all metal and keeping it buffered and  
24 that sort of stuff --

25 MS. MOLE: Right.

1 MR. PARKER: -- how do we --  
2 because to my ears this doesn't sound like an  
3 unreasonable request for the ARB. How does that  
4 get kicked back to you-all?

5 MS. MOLE: Well, in this case it  
6 would just be the Fishburns letting us know  
7 that -- and we would talk to the Messermans about  
8 it. I mean it would --

9 MR. PARKER: Okay. But that's  
10 strictly in your jurisdiction?

11 MS. MOLE: Right.

12 MR. LARSEN: Under what Randy read,  
13 didn't you read we could approve it with  
14 contingencies? So we could --

15 MS. KULICK: Conditions.

16 MR. LARSEN: Okay.

17 MR. TAYLOR: I was going to say the  
18 approved conditions with -- those two separate I  
19 think purview questions as far as you going  
20 towards esthetics, that still would be out of  
21 this board's jurisdiction, so just be mindful of  
22 that.

23 MR. GILMORE: But John, we could  
24 approve it with the understanding that the ARB,  
25 the parties would sit down and come to some

1 mutual agreement. That's all.

2 MR. PARKER: Or that the ARB would  
3 come back and review in light of the Fishburns'  
4 request.

5 MR. GILMORE: I'm sure if that's  
6 the way the board wanted to go, they could come  
7 up with something.

8 MR. FARABEE: But Mr. Fishburn  
9 mentioned specific kinds of, architectural kinds  
10 of things.

11 MR. GILMORE: That's not for you  
12 and I to decide.

13 MR. FARABEE: I know it, but I'm  
14 saying, my question is does that have to go back  
15 to the ARB to be reviewed?

16 MS. MOLE: It would come back to  
17 the ARB, but it would have to come back to us for  
18 permitting anyway, so --

19 MR. FARABEE: Yeah, but that's not  
20 good enough. I know in the past you've said  
21 we're going to go out and chase this vegetation  
22 that's been planted to screen the stuff, and that  
23 hasn't happened. So I think that -- I mean  
24 specifically he talks about the architectural  
25 kinds of things. I don't know why those don't

1 have to be approved in your -- before they come  
2 to us.

3 MR. MOLE: Well, that wasn't what  
4 was presented to us.

5 MR. FARABEE: I understand that,  
6 but I'm saying, though, the Nyes raised it, so we  
7 could send it back to you. Is that correct?

8 MS. MOLE: Technically, but I don't  
9 know if that -- John, I have to ask you if that  
10 meant they would have to come back to the BZA  
11 again.

12 MR. TAYLOR: Well, if you make your  
13 decision, they would technically either make an  
14 appeal to the decision. That would be sort of  
15 the applicant's request to make an appeal to the  
16 decision. But if you're asking whether or not  
17 should this board make a decision on criteria  
18 established essentially for the ARB, then I would  
19 recommend against that.

20 MR. GILMORE: We can't do that.

21 MR. FARABEE: I'm asking, things  
22 that are normally in the purview of ARB now then  
23 come to ours, we can approve those without going  
24 back to the ARB or we cannot? Is that correct?

25 Well, I'm saying he's asked for specific

1 things, but it seems to me that would have been  
2 reviewed in ARB review with regard to what the  
3 back deck looks like, what can be seen, what  
4 can't be seen, and I'm saying if they're going to  
5 waive on that, then do we have the authority  
6 to --

7 MR. TAYLOR: I would give an  
8 example to say if one of the suggestions was to  
9 include more planting --

10 MR. FARABEE: I'm not talking about  
11 plantings. If I had this in writing, I could  
12 tell you exactly what you referred to. Sounded  
13 to me like you're referring to there's some  
14 banisters, some coloring, that sort of thing that  
15 are --

16 MR. FISHBURN: To make it as simple  
17 as possible, the railings would be the color of  
18 the walls of the house.

19 MR. FARABEE: Really?

20 MR. GILMORE: But this is not, this  
21 is not our issue. We can --

22 MR. FARABEE: I'm trying to  
23 understand whose issue it is and when it's  
24 resolved.

25 MR. GILMORE: It's not our issue.

1 We have two simple questions in front of us. One  
2 is the setback issue, the other is a lot coverage  
3 issue. If we want to approve and we say we would  
4 like the parties to get together and see if they  
5 can come to some agreement, I think that's fine.  
6 We have no further jurisdiction at all. And I  
7 don't want to get ourselves all tied up in trying  
8 to direct the homeowner as to what they should  
9 do. It's not our responsibility. It's between  
10 the homeowner and the ARB and the ARB and another  
11 resident.

12 MR. FARABEE: The write-up seems to  
13 include several times where all these neighbors  
14 seem to be happy with what's going on there, and  
15 yet we have one of the neighbors that mentions,  
16 Mr. Fishburn, who stands up and says there are  
17 some things that I'd like to see changed. I'm  
18 just trying to understand which is correct.

19 MR. GILMORE: Well, I'm trying to  
20 explain it the best I can, sir. We have two  
21 questions and two questions only. If you would  
22 like to try to encourage a discussion between the  
23 two residents and the ARB, I'm all for that, but  
24 we can't direct it. We have no power to direct  
25 anything.

1 MR. FARABEE: I'm trying to  
2 understand the responsibility here.

3 MR. GILMORE: Our responsibility is  
4 to look at two issues. One is setbacks and the  
5 other is lot coverage, and that's our total  
6 responsibility. We have no architectural review  
7 responsibility whatsoever. We are also not -- we  
8 do not have the responsibility of being mediators  
9 between neighbors.

10 MR. MESSERMAN: It won't be  
11 necessary.

12 MR. GILMORE: I'm sure it won't.  
13 Okay? I'm just trying to --

14 MR. HACKER: We can recommend in  
15 our approval that the ARB revisits these specific  
16 concerns of the neighbors to make sure that it is  
17 done in accordance with not only the neighborhood  
18 requirements but also the town's requirements.

19 MR. FISHBURN: I was trying to stay  
20 with the chairman's -- is that one of the  
21 situations with the Architectural Review Board is  
22 there's not a prior notification of neighbors  
23 within the 300 feet when a situation is going to  
24 come to you for a final approval. The only time  
25 we are formally notified is when it's coming to

1 the BZA.

2 MR. GILMORE: I understand that,  
3 but that's not -- that's not an ARB -- that's not  
4 BZA, anything we have --

5 MR. PARKER: Here's the woman you  
6 need to take that up with.

7 MR. GILMORE: I mean, that's the  
8 wrong -- you're talking to the wrong people.

9 MR. FISHBURN: I understand.

10 MR. GILMORE: We're all residents  
11 too, so we -- any further questions for Amanda?  
12 Yes, Mr. Rose.

13 MR. ROSE: Well, as Amanda said,  
14 that we still have to -- if you guys approve us  
15 tonight, it's in your purview of the zoning  
16 issues, we still have to get a building permit  
17 from them. We have to do a color board on site.  
18 The color board has to be approved by the ARB.  
19 And also, our client already wants to do metal  
20 railings, so that's one step toward that. But  
21 the main thing was we didn't change the drawings  
22 until we made sure if we got the variance, but  
23 that's, you know -- but like I said, going back  
24 to the ARB for -- we have to still go back for  
25 the final permit, and the staff will review it

1 and make sure that we're not trying to pull a  
2 fast one over them and do something weird that  
3 wasn't approved by them. So hope that maybe  
4 clarified some of your --

5 MR. GILMORE: Thank you, sir.  
6 Board, is there any questions for anyone left  
7 that you want to ask?

8 (No response.)

9 MR. GILMORE: Okay. Hearing none,  
10 I'd like to close the fact-finding portion of  
11 this session and move toward a recommendation,  
12 and we have to do two recommendations. We have  
13 two separate questions to answer. So on --  
14 the first question I'd like to hear  
15 recommendation is on the setback issue.

16 MR. FARABEE: Can I ask a question,  
17 please?

18 MR. GILMORE: Sure.

19 MR. FARABEE: It seems to me that  
20 if we approve case one we are, in fact, approving  
21 case two, and explain to me why we're not.

22 MR. GILMORE: If we say yes to one  
23 and no to two, then we've said no to both.

24 MR. FARABEE: Well, okay. So I'm  
25 trying to understand how we're dealing with two

1 separate cases here if they both -- one answer  
2 determines both. That's --

3 MR. GILMORE: Because John told me  
4 I had to do it this way. That's why.

5 MR. TAYLOR: Hypothetically  
6 speaking, the approval of one could be rearranged  
7 to change the lot coverage for two. So we're  
8 looking at -- and it's separate instances. The  
9 first one is strictly being over the setback. So  
10 let's say that that was approved. Then the  
11 second one being looking at lot coverage, that's  
12 a separate entity and being overage in lot  
13 coverage. So you could in a sense still say no  
14 to the second as it -- meaning as it's being  
15 judged by a different criteria. So the first  
16 one's being judged by it's over the rear setback.  
17 The second one's being judged by the percentage  
18 of lot coverage overage.

19 MR. GILMORE: As a ludicrous  
20 example, the homeowners could decide to tear down  
21 their garage and turn it into a vegetable garden  
22 and it would definitely reduce the lot coverage.  
23 So there's a way to answer the lot coverage  
24 question should that hang everything up.

25 MR. TAYLOR: It's in your hands.

1 MR. GILMORE: Anybody have a  
2 recommendation on one?

3 MR. PARKER: Yeah, on BZA  
4 12-17-00233, I move to accept and -- the appeal.

5 MR. GILMORE: Is there a second?

6 MR. LARSEN: Approve the variance?

7 MR. PARKER: Yeah, approve the  
8 variance.

9 MR. FARABEE: I'm sorry. I didn't  
10 hear the --

11 MR. GILMORE: It's on the --

12 MR. PARKER: The setback.

13 MR. GILMORE: -- the setback  
14 variance. Is there a second?

15 MR. HACKER: I second.

16 MR. GILMORE: Questions, comments,  
17 discussion?

18 MS. KULICK: Randy?

19 MR. GILMORE: Yes, ma'am.

20 MS. KULICK: My concerns as I look  
21 at this, and I'm talking about the -- in relation  
22 to the motion for the setbacks, is my  
23 understanding is that all of the criteria must be  
24 met in order for us to approve this, and there  
25 are a number of instances -- for instance, under

1 12-163(4)C, it says under staff response, it  
2 would prohibit -- application of the ordinance  
3 would prohibit it, but it wouldn't prevent use of  
4 the property. So that doesn't appear to me to  
5 meet that particular response.

6 And so since all of these need to be  
7 met, if we look at 163(4) Paragraph G, the need  
8 for the -- the need for the variance may be the  
9 result of the applicant's own actions. Since the  
10 existing residence is a non-conforming structure,  
11 the existing structure could be maintained  
12 without the need for a variance.

13 So those two sections alone say that  
14 it's not that usage of the property would be  
15 prohibited. And I think at one point the  
16 applicant talked about it would increase but it  
17 wouldn't prohibit them being able to use the  
18 property. And because those two sections are not  
19 being met as -- I can't vote in support of this.

20 And I'm very appreciative of the  
21 position the Messermans find themselves in since  
22 they didn't build the house to begin with, but my  
23 understanding of the way that we apply the law is  
24 that all of these conditions must be met. Those  
25 are two instances where it doesn't appear to me

1 the conditions have been met.

2 MR. PARKER: I take exception to  
3 that because I think the point of this body is to  
4 adjudicate when there are issues like this and to  
5 do what's reasonable. If all the conditions had  
6 to be met, there would be no need for a BZA. It  
7 would either be they're met or they're not.

8 MR. GILMORE: Black or white.

9 MR. PARKER: And our job is to  
10 weigh the pros and cons and take a look at is the  
11 application of this a reasonable application or  
12 is it reasonable that harms no one to, you know,  
13 say, well, let's do this. And in terms of whose  
14 intent it is, or you know, it's their action,  
15 they haven't taken any action yet. All they are  
16 asking for is the ability to take an action.

17 MS. KULICK: I understand that.  
18 I'm just going, Scott, by what we're presented  
19 with.

20 MR. PARKER: I mean that's my take  
21 on it and so --

22 MS. KULICK: Uh-hum.

23 MR. GILMORE: Wendy, a couple of  
24 years ago, two years ago, we had our session  
25 with --

1 MR. LARSEN: With the county.

2 MR. GILMORE: No, with the state.

3 John came in with the state where we talked about  
4 the specific requirements, and we were advised  
5 that we -- it's our job to use our discretion and  
6 that these points, while all embedded in an  
7 ordinance, there is -- he felt that they have  
8 different weights.

9 If you said in this situation that the  
10 deck could never be changed because -- or that  
11 nothing could be done on this property because  
12 it's non-conforming by an existing owner, then  
13 you just simply shut them down. There's no  
14 reason to come to us. There's no reason to do  
15 anything because you can't do anything. And so  
16 while we have these specific areas that we have  
17 to repress, we have to look at them with some  
18 reasonableness to try to figure out whether what  
19 the applicant wants to do is detrimental to our  
20 community.

21 So I agree with you. This point has  
22 been argued as long as I've been on the BZA, and  
23 I'm sure argued a lot longer than that.

24 Yes, sir?

25 MR. LARSEN: My problem relates to,

1     though, what we are charged with, and when you  
2     look at -- one of the things we were told is it's  
3     always going to be the applicant that causes us  
4     to be here, and is it reasonable, and where  
5     practical difficulty or unnecessary hardship is  
6     so substantial, serious and compelling, that  
7     relaxations in the principle ought to be granted.  
8     And if it were only the applicant, what the  
9     applicant's doing -- what is that, "I"? We never  
10    meet that one. But this is not what we are  
11    charged with in terms of, A could be argued it's  
12    not met, C it's not met, D it's not met, and G  
13    it's not met. No, I is not met. And it's like  
14    we're saying, well, this doesn't matter, they're  
15    nice people, let's approve it.

16                 I mean when I see both the setback -- I  
17    mean the setback issue has been a deal breaker  
18    many times, the going over 33 percent or 25  
19    percent, or whatever the number is on different  
20    properties, defeats proposals on its own, and now  
21    we have one with both of them where conditions  
22    aren't meant. I just cannot go --

23                 MR. PARKER: But just to argue your  
24    point real quickly, I mean one of the reasons why  
25    these conditions aren't met is because this

1 driveway takes up so much of the lot coverage.

2 MR. LARSEN: But it's a --

3 MR. PARKER: But it was done this  
4 way though to accommodate, you know, these Live  
5 Oaks at one point in time, okay. And then the  
6 terms of the lot coverage, this deck is going to  
7 be cantilevered, and so there's no issue with  
8 perc or any of those sorts of issues. That's a  
9 completely arbitrary and definitional thing by  
10 John's own admission.

11 MR. LARSEN: But everything over  
12 the setback is that way practically that we have  
13 looked at, and if you are going -- the easy one  
14 would be to tear up the driveway as our neighbor  
15 did and put pine straw down and suddenly he's  
16 okay.

17 MR. HACKER: And doesn't that sound  
18 silly to do that?

19 MR. GILMORE: Not anymore. Not  
20 anymore, Charlie.

21 MR. LARSEN: What?

22 MR. GILMORE: Not anymore, Charlie.

23 MR. LARSEN: You can't do that  
24 anymore?

25 MR. GILMORE: No. No, that fix has

1 been ended, just like the cantilever fix has been  
2 ended.

3 MR. HACKER: I look at this  
4 property was there to protect the naturalness of  
5 our island by keeping oak trees. So they move  
6 the house all the way back. Now they want to  
7 make a little bit of difference in their deck,  
8 cantilever it so that they don't even cover the  
9 ground, and we're all here arguing about the fact  
10 that it's over the setbacks. The setbacks were  
11 very arbitrary back when they happened. It's  
12 moving further out towards the -- the usage is  
13 moving farther out to the river. I feel that  
14 they've got good reason to be here and be able  
15 to --

16 MR. LARSEN: Well, it's still over  
17 the deck and a lot of the house even though it's  
18 moved.

19 MR. HACKER: Yeah, but somebody  
20 said it was okay to put it there in the first  
21 place, and they're not changing it that much.

22 MR. LARSEN: Well, there wasn't --  
23 it was okay when they built it. It wasn't okay  
24 when they bought it. We're talking about two  
25 different people.

1 MR. GILMORE: No, Charlie, it was  
2 okay when they built it, the original people  
3 built it.

4 MR. LARSEN: Yeah, yeah.

5 MR. GILMORE: It was built -- it  
6 was given approval. It was non-conforming at the  
7 time it was originally built.

8 Okay. Any further questions, comments  
9 debates, throwing of things?

10 (No response.)

11 MR. GILMORE: Call the question.  
12 Those in favor of aye, say aye.

13 MR. PARKER: Aye.

14 MR. HACKER: Aye.

15 MR. GILMORE: Aye. Those opposed?

16 MR. FARABEE: Aye.

17 MS. KULICK: No.

18 MR. LARSEN: No.

19 MR. GILMORE: Motion fails.

20 MR. FARABEE: Can we see a show of  
21 hands? You said fails?

22 MS. KULICK: It was 3/3.

23 MR. GILMORE: 3/3.

24 MR. HACKER: It fails.

25 MR. PARKER: If that's the case, is

1 there any reason to vote on the second?

2 MR. GILMORE: No, we have to vote  
3 on the second. Second motion?

4 MR. MESSERMAN: Did it pass?

5 MR. PARKER: It did not pass.

6 MR. GILMORE: The second question.

7 MR. MESSERMAN: I'd like to be  
8 heard.

9 MR. GILMORE: I understand that.

10 MS. KULICK: And Dwayne's not here  
11 to rule. The Hearing is closed.

12 MR. GILMORE: I don't have any way  
13 of changing what we just did.

14 MR. MESSERMAN: Pardon me?

15 MR. GILMORE: I don't have any way  
16 of changing what we just did.

17 MR. MESSERMAN: Well, we're not  
18 going to bring this to court. It's a very  
19 substantial period of time.

20 MS. MESSERMAN: What was the final  
21 vote?

22 MR. GILMORE: 3/3.

23 MR. HACKER: 3/3.

24 MS. MESSERMAN: 3/3?

25 MR. ROSE: So why is that a

1 failure? It's a tie.

2 MR. GILMORE: It fails. Motion  
3 fails for -- it doesn't carry. Motion fails. It  
4 doesn't carry.

5 MR. ROSE: So if it's a tie, you  
6 don't have anyone to --

7 MR. GILMORE: Do I have a motion on  
8 the second proposition?

9 MR. HACKER: I move that we approve  
10 the lot coverage due to the unusual circumstance  
11 of where the house was put, that it needed to  
12 have a driveway be 30 percent of the coverage of  
13 the property.

14 MR. PARKER: I second.

15 MR. GILMORE: Any questions,  
16 comments?

17 MR. LARSEN: Well, again, if  
18 they're within the footprint, they don't have to  
19 come to us. And if you -- if they stay within  
20 the footprint with the deck, a variance isn't  
21 required.

22 MR. GILMORE: Lot coverage variance  
23 would be.

24 MR. LARSEN: Not if --

25 MR. GILMORE: A lot variance --

1 MR. HACKER: Well, the first one --  
2 Charlie's right. If the first one didn't pass,  
3 then the square footage stays exactly where it  
4 used to be, so there's no reason for a vote.

5 MR. FARABEE: It's a moot point.

6 MR. FISHBURN: Without being out of  
7 order, the neighbor would like to be able to  
8 build a deck.

9 MR. GILMORE: I understand that.

10 MR. FISHBURN: Okay.

11 MS. MESSERMAN: We also have had  
12 letters from another neighbor.

13 MR. GILMORE: We have it.

14 MR. MESSERMAN: And there is a  
15 hardship.

16 MR. GILMORE: Ron, you going to  
17 withdraw your motion?

18 MR. HACKER: I withdraw the motion  
19 that I made because it does not take into any --  
20 does not take into account any new changes of lot  
21 coverage.

22 MR. GILMORE: Is there a second on  
23 withdraw, a second?

24 MR. LARSEN: Yes.

25 MR. GILMORE: Thank you. This

1 proceeding is now adjourned.

2

3 (The hearing was adjourned at

4 5:26 PM.)

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## REPORTER'S CERTIFICATE

I, AMY E. ST JAMES, Court Reporter and Notary Public in and for the State of South Carolina at Large, do hereby certify that I correctly reported the within-entitled matter and that the foregoing is a full, true and correct transcription of my shorthand notes of the testimony and/or other oral proceedings had in the said matter.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal on this 6th day of February, 2018 at Charleston, Charleston County, South Carolina.

Amy E. St James, CSR(MA)  
COURT REPORTER  
My Commission expires:  
June 26, 2027

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**keep** (2)  
**keeping** (3)  
**kept** (1)  
**KIAWAH** (17)  
**kicked** (1)  
**kind** (5)  
**kinds** (3)  
**know** (31)

**knowing** (1)  
**Kulick** (22)

## &lt; L &gt;

**Ladies** (2)  
**lady** (1)  
**Land** (7)  
**lands** (2)  
**landscape** (5)  
**landscaping** (4)  
**Lane** (5)  
**Larence** (2)  
**Large** (1)  
**larger** (1)  
**Larsen** (34)  
**Larson** (1)  
**late** (1)  
**lattice** (3)  
**law** (1)  
**left** (2)  
**legal** (2)  
**legally** (4)  
**letter** (25)  
**letters** (1)  
**letting** (1)  
**level** (5)  
**light** (3)  
**limit** (1)  
**limited** (1)  
**Line** (23)  
**lines** (5)  
**little** (4)  
**Live** (6)  
**lives** (1)  
**living** (2)  
**Local** (1)  
**located** (9)  
**LOCATION** (5)  
**long** (3)  
**longer** (1)  
**look** (11)  
**looked** (5)  
**looking** (7)  
**looks** (1)  
**lot** (79)  
**lots** (6)  
**love** (1)  
**low** (1)  
**ludicrous** (1)

**lying** (1)

## &lt; M &gt;

**MA** (2)  
**ma'am** (1)  
**mailed** (2)  
**main** (1)  
**maintained** (4)  
**majority** (1)  
**making** (1)  
**map** (5)  
**marginally** (1)  
**mark** (4)  
**marked** (2)  
**marking** (1)  
**Marsh** (17)  
**mass** (3)  
**material** (1)  
**matter** (5)  
**mature** (1)  
**maximum** (4)  
**mean** (17)  
**meaning** (1)  
**meant** (2)  
**measure** (4)  
**measured** (1)  
**mechanisms** (1)  
**media** (1)  
**mediators** (1)  
**meet** (2)  
**MEETING** (6)  
**meetings** (1)  
**MEMBERS** (3)  
**mentioned** (2)  
**mentions** (1)  
**Messerman** (12)  
**Messermans** (5)  
**met** (14)  
**metal** (4)  
**mic** (1)  
**middle** (3)  
**mindful** (1)  
**minimum** (1)  
**minutes** (2)  
**modifications** (2)  
**modify** (1)  
**modifying** (1)  
**Mole** (16)  
**months** (1)

**moot** (1)  
**motion** (8)  
**move** (7)  
**moved** (9)  
**moving** (2)  
**multi-layered** (2)  
**MULTIPLE** (1)  
**mutual** (1)  
**mystery** (1)

< N >

**name** (2)  
**native** (5)  
**natural** (3)  
**naturalness** (1)  
**nature** (3)  
**nearby** (1)  
**necessary** (1)  
**need** (14)  
**needed** (1)  
**needs** (3)  
**negatively** (2)  
**negotiated** (1)  
**negotiation** (1)  
**neighbor** (9)  
**neighborhood** (6)  
**neighboring** (3)  
**neighbors** (11)  
**neither** (1)  
**never** (4)  
**new** (9)  
**news** (1)  
**nice** (1)  
**nominate** (2)  
**nominations** (6)  
**non-conforming** (14)  
**non-natives** (1)  
**non-residential** (1)  
**normal** (3)  
**normally** (1)  
**Notary** (1)  
**notes** (2)  
**notice** (1)  
**notification** (2)  
**notified** (2)  
**November** (4)  
**NUMBER** (8)  
**numbers** (1)  
**numerous** (1)

**Nyes** (1)

< O >

**Oak** (7)  
**Oaks** (1)  
**oath** (1)  
**obtain** (1)  
**occupied** (2)  
**OCRM** (11)  
**officers** (1)  
**official** (7)  
**Oh** (3)  
**oil** (1)  
**Okay** (34)  
**old** (9)  
**once** (1)  
**one's** (2)  
**open** (5)  
**opportunity** (1)  
**opposed** (5)  
**opposes** (1)  
**oral** (1)  
**orally** (1)  
**order** (7)  
**ordinance** (16)  
**organizations** (1)  
**original** (7)  
**originally** (1)  
**ought** (2)  
**outdoor** (2)  
**outside** (1)  
**outstanding** (1)  
**overage** (3)  
**overall** (2)  
**overlook** (1)  
**overlooking** (1)  
**overturn** (1)  
**owner** (1)  
**owners** (2)

< P >

**packet** (3)  
**packets** (2)  
**Page** (1)  
**painting** (1)  
**Paragraph** (1)  
**parallel** (1)  
**parcel** (1)  
**Pardon** (2)

**Park** (3)  
**Parker** (46)  
**part** (12)  
**particular** (9)  
**particularly** (1)  
**parties** (5)  
**party** (1)  
**pass** (3)  
**path** (1)  
**pattern** (3)  
**pending** (1)  
**people** (10)  
**perc** (1)  
**percent** (14)  
**percentage** (2)  
**percolation** (1)  
**period** (1)  
**permanent** (1)  
**permission** (1)  
**permit** (5)  
**permits** (1)  
**permitted** (3)  
**permitting** (1)  
**person** (2)  
**Persons** (1)  
**pertaining** (3)  
**pertinent** (2)  
**pervious** (5)  
**physically** (4)  
**piece** (7)  
**pie-shaped** (4)  
**pinch** (1)  
**pine** (1)  
**place** (3)  
**placement** (3)  
**places** (3)  
**plan** (10)  
**Planning** (2)  
**plans** (2)  
**plant** (2)  
**planted** (1)  
**planters** (1)  
**planting** (2)  
**plantings** (1)  
**plat** (2)  
**please** (8)  
**PM** (1)  
**pocket** (1)  
**podium** (1)

**point** (15)  
**points** (1)  
**portion** (6)  
**position** (1)  
**positioning** (1)  
**possible** (1)  
**Post** (1)  
**posted** (1)  
**power** (2)  
**PR** (3)  
**practical** (3)  
**practically** (1)  
**predominantly** (1)  
**preferably** (1)  
**presale** (2)  
**PRESENT** (7)  
**presentation** (2)  
**presented** (4)  
**presently** (1)  
**preserve** (4)  
**prevent** (1)  
**primary** (1)  
**principle** (1)  
**printed** (1)  
**prior** (5)  
**probably** (4)  
**problem** (2)  
**procedural** (1)  
**procedure** (2)  
**proceeding** (1)  
**proceedings** (1)  
**process** (2)  
**profitability** (2)  
**profitably** (1)  
**program** (2)  
**prohibit** (6)  
**prohibited** (1)  
**project** (2)  
**promote** (1)  
**properties** (9)  
**property** (72)  
**property's** (1)  
**proposals** (1)  
**proposed** (16)  
**proposition** (1)  
**pros** (1)  
**prospects** (1)  
**protect** (1)  
**protection** (1)

provide (1)  
 provided (1)  
 public (9)  
 pull (2)  
 purchase (2)  
 purchased (5)  
 purchasing (3)  
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 purposes (3)  
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 push (1)  
 put (5)  
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 quick (1)  
 quickly (2)  
 quit (1)  
 quite (2)  
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 quote (34)  
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## &lt; R &gt;

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 railings (5)  
 raised (2)  
 Randy (5)  
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 read (4)  
 real (3)  
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 rearranged (1)  
 reason (8)  
 reasonable (4)  
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 reasoning (1)  
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 recommendations

(1)  
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 records (3)  
 Recreation (3)  
 reduce (2)  
 reduced (2)  
 reduction (1)  
 reference (1)  
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 regard (1)  
 regarding (9)  
 regards (1)  
 regulations (3)  
 reiterate (1)  
 related (1)  
 relates (1)  
 relation (1)  
 relaxation (1)  
 relaxations (1)  
 relief (1)  
 remain (1)  
 remediation (1)  
 removal (1)  
 remove (1)  
 removed (1)  
 removing (2)  
 renovation (3)  
 renovations (1)  
 repeat (1)  
 reply (1)  
 REPORTED (2)  
 Reporter (2)  
 REPORTER'S (1)  
 representative (1)  
 representatives (1)  
 representing (1)  
 repress (1)  
 request (13)  
 requested (4)  
 requests (2)  
 require (3)  
 required (8)  
 requirement (1)  
 requirements (4)  
 requires (1)  
 residence (4)

resident (1)  
 Residential (7)  
 residents (4)  
 residual (6)  
 residuary (1)  
 resolved (1)  
 response (22)  
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 restriction (1)  
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 reviewed (2)  
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 Rhett's (1)  
 Richard (2)  
 right (19)  
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 rise (1)  
 River (19)  
 road (1)  
 Ron (5)  
 room (2)  
 Rose (42)  
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 rulings (1)  
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## &lt; S &gt;

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 says (14)  
 SC (1)  
 Scott (3)  
 screen (1)  
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 seal (1)  
 second (31)  
 sections (2)  
 see (15)  
 seeking (1)  
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 semantic (1)  
 send (1)  
 sense (1)  
 sent (1)

separate (7)  
 separately (2)  
 separation (1)  
 serious (2)  
 session (2)  
 set (2)  
 setback (50)  
 setbacks (10)  
 sewer (1)  
 shape (4)  
 share (2)  
 sheet (1)  
 shield (1)  
 shielding (1)  
 shifted (1)  
 shifts (1)  
 shirt (1)  
 shorthand (1)  
 show (5)  
 showing (7)  
 shown (3)  
 shows (7)  
 shrubs (2)  
 shut (1)  
 side (11)  
 sides (1)  
 sight (1)  
 sign (1)  
 sill (1)  
 silly (1)  
 similar (1)  
 simple (3)  
 simply (2)  
 sir (11)  
 sit (1)  
 site (7)  
 sited (1)  
 situation (3)  
 situations (1)  
 size (4)  
 skinny (2)  
 skyward (1)  
 slightly (1)  
 small (2)  
 smaller (2)  
 sod (1)  
 sod-related (1)  
 somebody (2)  
 somewhat (2)

sorry (4)  
 sort (7)  
 sorts (1)  
 sound (2)  
 Sounded (1)  
 SOUTH (7)  
 space (2)  
 spaces (2)  
 speak (3)  
 speaking (2)  
 speaks (1)  
 special (5)  
 specific (9)  
 specifically (1)  
 specifics (2)  
 spirit (3)  
 spoke (1)  
 spot (1)  
 square (8)  
 ST (3)  
 STAFF (24)  
 staircase (2)  
 stairs (1)  
 staked (1)  
 stand (5)  
 standards (3)  
 stands (1)  
 started (1)  
 state (5)  
 stated (1)  
 statements (1)  
 states (6)  
 stating (2)  
 status (2)  
 stay (2)  
 stays (1)  
 step (2)  
 stone (1)  
 storm (2)  
 Strategy (1)  
 straw (1)  
 strict (2)  
 strictly (2)  
 structure (16)  
 Structured (4)  
 structures (2)  
 stucco (2)  
 stuff (3)  
 subdivision (2)

subject (24)  
 submittal (8)  
 submitted (6)  
 subpoena (1)  
 substantial (6)  
 substantially (3)  
 suddenly (1)  
 suggestions (1)  
 supercede (2)  
 support (1)  
 supports (1)  
 sure (9)  
 surface (2)  
 surrounding (1)  
 survey (3)  
 swear (4)  
 sworn (5)

## &lt; T &gt;

table (1)  
 take (10)  
 taken (1)  
 takes (1)  
 talk (3)  
 talked (2)  
 talking (6)  
 talks (2)  
 Taylor (48)  
 tear (2)  
 technically (5)  
 tell (1)  
 term (1)  
 terminus (1)  
 terms (5)  
 testimony (3)  
 Thank (15)  
 thereof (1)  
 thing (8)  
 things (10)  
 think (14)  
 third (2)  
 thought (1)  
 three (1)  
 throwing (1)  
 tie (2)  
 tied (1)  
 TIME (20)  
 times (4)  
 TMS (1)

today (7)  
 today's (1)  
 told (2)  
 tonight (1)  
 top (1)  
 total (1)  
 TOWN (9)  
 town's (2)  
 transcription (1)  
 trees (4)  
 trim (1)  
 true (3)  
 trust (1)  
 try (2)  
 trying (13)  
 turn (1)  
 two (29)  
 types (1)

## &lt; U &gt;

Uh-hum (1)  
 Uh-uh (1)  
 unchanged (1)  
 underground (1)  
 underneath (2)  
 understand (12)  
 understanding (4)  
 Understood (1)  
 undevelopable (1)  
 undeveloped (1)  
 unfortunately (1)  
 unique (4)  
 unnecessary (3)  
 unreasonable (1)  
 unreasonably (2)  
 unsure (1)  
 unusual (1)  
 updated (2)  
 usage (2)  
 use (18)  
 utility (1)  
 utilization (4)  
 utilized (1)

## &lt; V &gt;

vacant (7)  
 valid (1)  
 variance (61)  
 variances (7)

vegetable (1)  
 vegetation (5)  
 vertical (1)  
 vice (1)  
 vicinity (9)  
 view (3)  
 views (1)  
 VIII (1)  
 visible (1)  
 visit (1)  
 vote (7)  
 voted (1)

## &lt; W &gt;

waive (1)  
 wall (4)  
 walls (1)  
 want (7)  
 wanted (2)  
 wanting (1)  
 wants (2)  
 water (2)  
 Water's (1)  
 way (13)  
 weigh (1)  
 weights (1)  
 weird (1)  
 well (28)  
 Wendy (3)  
 went (2)  
 we're (22)  
 west (6)  
 we've (3)  
 whatsoever (1)  
 white (3)  
 wide (1)  
 wider (1)  
 width (2)  
 wiggle (1)  
 windows (1)  
 wish (1)  
 wishes (1)  
 wishing (2)  
 withdraw (3)  
 within-entitled (1)  
 Witness (1)  
 witnesses (1)  
 woman (1)  
 Wood (1)

**wooden** (1)  
**word** (1)  
**words** (1)  
**work** (2)  
**workings** (1)  
**write-up** (3)  
**writing** (3)  
**written** (2)  
**wrong** (2)  
**WWW.CLARK-ASSOCIATES.COM** (1)

**< Y >**

**yard** (6)  
**Yeah** (19)  
**year** (1)  
**years** (7)  
**you-all** (1)

**< Z >**

**zone** (5)  
**zoned** (1)  
**ZONING** (36)