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APPLICATION FOR ZONING VARIANCE

IN THE MATTER OF

JEFFREY KASS
355 SUMMIT AVENUE

Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

April 26, 2022
7:21 p.m.

B E F O R E:

MEIR KRENGEL, Chairman

JARED CLARK, Board Member

DAVID SHTEIERMAN, Board Member

SHIFRA EDELMAN, Board Member

YOEL GOLDFEDER, Village Attorney

WAYNE YARNELL, Supt. Bldg. Dept.

Proceedings - Kass

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2 CHAIRMAN KRENGEL: Good evening once
3 again. This is Case Number 13 of 2022. The
4 application of Jeffrey Kass, 355 Summit
5 Avenue, Cedarhurst. They are seeking a
6 variance under Cedarhurst Village Code --
7 three different codes: 265-33A, Permitted
8 Uses; 265-38C, Building Area; and 265-42, Rear
9 Yards. The village attorney will now read a
10 statement into the record.

11 MR. GOLDFEDER: Mr. Chairman, members of
12 the Board, for the record, we have been
13 provided with proof of the mailing and
14 publication in the local newspaper of record,
15 of all notices of this hearing as required by
16 law. Accordingly, jurisdiction has been
17 obtained over all necessary parties, and this
18 Board has jurisdiction to hear this appeal.

19 Pursuant to New York State General
20 Municipal Law Section 809, on March 2, 2022, a
21 non-collusion affidavit has been duly executed
22 by the applicant, Julie Kass, wherein she
23 stated that there are no other persons or
24 entities involved in this application that are
25 employed by or connected to the Village of

Proceedings - Kass

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2 Cedarhurst, its officers, or employees, which
3 would in any way constitute a conflict under
4 the law.

5 Pursuant to an agreement between the
6 Village of Cedarhurst and Nassau County
7 Planning Commission, the Nassau County
8 Planning Commission has been given notice of
9 this application and has waived consideration
10 thereof. Mr. Chairman, members of the Board.

11 CHAIRMAN KRENGEL: Will the owner please
12 step forward? State your name and address.

13 MS. KASS: My name is Julie Kass. Thank
14 you for taking the time. I am seeking a
15 variance for 355 Summit Avenue. We are
16 seeking the variance regarding as far as I
17 know what he just said.

18 What I most know about is that the
19 structure or accessory structure exceeding 30
20 percent of the lot of the area is something we
21 are going to exceed. We are looking to put an
22 enclosure over a pool, which would make it 37
23 percent of the square footage and I know that
24 sounds like a lot, over 7 percent. However,
25 this is not a brick-and-mortar structure.

Proceedings - Kass

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2 It's a small clear plastic structure that is
3 under the fence. It's lower than the fence so
4 no one should be able to see it. It shouldn't
5 be an eyesore to anyone, and we are seeking it
6 based on a practical difficulty regarding my
7 husband's health.

8 So last year after he had gotten his
9 second vaccine shot, he suffered a stroke two
10 weeks later. He went from someone who just
11 took vitamin D for his health suddenly had to
12 regain his muscle uses on the left side. He
13 has an aortic valve that's enlarged and has to
14 be monitored closely, and he has a table full
15 of medication that he is going to be on for
16 the rest of his life. The other thing the
17 cardiologist suggested was that he should do
18 aerobic exercise year-round for his heart
19 health. So he can't really do running or
20 bicycling because in his family they have knee
21 issues so his father, his brother who is only
22 55, they already had knee replacement issues.
23 He used to run. He had to stop because his
24 knees were bothering him and he does not want
25 to go through that especially now he can't

Proceedings - Kass

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2 because of the stroke. So ideally the best
3 way to get aerobic exercise for him would be
4 using the pool all the time.

5 We do not seek to get some luxuriant
6 enclosure. We got the smallest possible
7 enclosure so when you walk out of the house it
8 would be connected. Right when you walk out
9 of the house in the middle of the enclosure,
10 it would be right above your head. If you
11 step to the right or you step to the left, you
12 would have to duck.

13 The pool itself is 12 feet wide. The
14 perimeter of the pool is surrounded by the
15 enclosure. You can't walk around the pool
16 inside of the enclosure. It's just to service
17 his need so that he can swim all year round.
18 It also -- as it gets -- each part gets
19 longer, it goes lower and lower and lower, and
20 so if he were to go swim across the pool, you
21 couldn't get out and stand under it because at
22 that point it's very low and the reason they
23 make it like that is each piece goes on top of
24 each other until the end of the pool so in the
25 summer if you want to enjoy the pool, it's all

Proceedings - Kass

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open.

So really it's just about giving him the opportunity to be able to swim year-round and to keep it as small as possible just to be serviceable for him and not to intrude on anyone else's -- you know, that they shouldn't look out and see this big thing in their neighbor's yard. And I'm sorry my architect isn't here to explain this to you. He had the days mixed up. He thought he was going to be here on Thursday so he had a prior engagement. He went over everything.

I hope that I explained it well enough and you can see on the board. The person standing next to it will show you the image so that you can actually see how small it really is. I did speak to my neighbors. I spoke to the Kleins and the Zerykiers who are by my sides, so they are the only ones who would see it if they look out their second-floor window. Suri said she would come, but she had an engagement party tonight and I didn't think I should get a written statement but I am hoping you will approve it and if there is something

Proceedings - Kass

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I missed --

CHAIRMAN KRENGEL: Just one thing. You said it's lower than the fence. Which fence?

MS. KASS: We had a -- you know, a perimeter fence put up.

CHAIRMAN KRENGEL: Shouldn't be lower. In the photo it's 7.6 inches the height. That's probably higher than the fence.

MS. KASS: I guess the very little.

CHAIRMAN KRENGEL: It's 7.6.

MR. YARNELL: Off the record.

(Discussion off the record.)

CHAIRMAN KRENGEL: In addition to the lot area, there is two other variances that you are seeking. One is the rear yard. You are required to have 25 feet from the property line. So that's an additional variance you are going for. With the structure I think you are approximately about 10 feet from the lot line. Which is about 25 feet.

MS. KASS: Maybe a little more but yes, clearly over.

CHAIRMAN KRENGEL: In addition, this is not considered an accessory building. This is

Proceedings - Kass

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attached to the house?

MR. GOLDFEDER: Just to clarify the structure and how it's connected to the house.

MS. KASS: It comes straight from the back door. There is a tunnel that was already approved and so the plastic enclosure, it would be connected to the tunnel.

CHAIRMAN KRENGEL: The retraction -- retracts starting from the house towards the back?

MS. KASS: Correct.

MR. YARNELL: The structure she is referring to is a permitted permanent structure. The pool enclosure will retract away from that structure. So when the pool cover is retracted, the cover structure is by itself and the pool is open.

CHAIRMAN KRENGEL: I just want to read a letter into the record. This is a letter from Long Island Heart and Vascular Specialist signed by Dr. Shervin Golbari regarding patient Jeffrey Kass, his date of birth. This letter was dated April 13, 2021.

MS. KASS: That's the date the letter

Proceedings - Kass

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was written.

CHAIRMAN KRENGEL: "To whom it may concern, Dr. Jeffrey Kass is under my cardiovascular care. Patient has history of known left internal carotid artery dissection and an aortic root aneurysm. Due to his medical conditions and to prevent progression of disease, patient was prescribed year-round exercise, including calisthenics, swimming, and bicycle riding. Please don't hesitate to contact me with additional questions."

This will be Applicant Number 1.

(Applicant's Exhibit 1, Letter, marked for identification, as of this date.)

CHAIRMAN KRENGEL: Okay. Thank you. Is that your case?

MS. KASS: That's my case.

CHAIRMAN KRENGEL: Anyone would like to speak in favor or against the application? State your name and address.

MS. ZERYKIER: Danit Zerykier. I am at 359 Summit Avenue. I live right next door to the Kasses. I have absolutely no problem with any of the plans they have shown me. We have

Proceedings - Kass

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2 discussed this considerably over, and my
3 husband and I are completely comfortable with
4 everything they are doing.

5 CHAIRMAN KRENGEL: Okay, thank you.
6 Anybody else? Would anybody like to speak
7 against this application? Anybody on the
8 Board have any questions? I am going to make
9 a motion to approve this application. I just
10 want to put a few things on the record.

11 The number one is that this is strictly
12 an enclosure for a pool, and there would be no
13 raised platform in the pool. Which would
14 actually -- which would level the property to
15 make it a useable patio I guess. So I also
16 want to note that this backyard faces a
17 commercial parking lot in the rear, and the
18 maximum height of the structure could be 10
19 foot 6 inches as proposed by the plans. If
20 that changes, we would have to come back. And
21 also as per village code, this pool cannot be
22 rented out for commercial purposes. Anyone
23 want to second?

24 MR. SHTEIERMAN: Second the motion.

25 MR. CLARK: Approved.

Proceedings - Kass

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MS. EDELMAN: Approved.

CHAIRMAN KRENGEL: Approved as proposed.

(Time noted: 7:31 p.m.)

Proceedings - Kass

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public within and for the State of New York, do hereby certify that the foregoing record of proceedings is a full and correct transcript of the stenographic notes taken by me therein.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 2022.

YAFFA KAPLAN

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24
25

----- EXHIBITS -----

APPLICANT'S FOR ID.

Exhibit 1 Letter 9

1

1 [3] - 9:13, 9:14, 13:4
10 [2] - 7:20, 10:18
12 [1] - 5:13
13 [2] - 2:3, 8:24

2

200 [1] - 1:7
2021 [1] - 8:24
2022 [4] - 1:10, 2:3, 2:20, 12:14
25 [2] - 7:17, 7:21
26 [1] - 1:10
265-33A [1] - 2:7
265-38C [1] - 2:8
265-42 [1] - 2:8

3

30 [1] - 3:19
355 [3] - 1:5, 2:4, 3:15
359 [1] - 9:23
37 [1] - 3:22

5

55 [1] - 4:22

6

6 [1] - 10:19

7

7 [1] - 3:24
7.6 [2] - 7:8, 7:11
7:21 [1] - 1:11
7:31 [1] - 11:4

8

809 [1] - 2:20
8th [1] - 12:14

9

9 [1] - 13:4

A

able [2] - 4:4, 6:4
absolutely [1] - 9:24
accessory [2] - 3:19, 7:25
accordingly [1] - 2:16
addition [2] - 7:14, 7:24
additional [2] - 7:18,

9:12

address [2] - 3:12, 9:21
aerobic [2] - 4:18, 5:3
affidavit [1] - 2:21
agreement [1] - 3:5
aneurysm [1] - 9:7
aortic [2] - 4:13, 9:7
appeal [1] - 2:18
Applicant [1] - 9:13
applicant [2] - 1:5, 2:22
APPLICANTS [1] - 13:3
Applicant's [1] - 9:14
APPLICATION [1] - 1:2
application [6] - 2:4, 2:24, 3:9, 9:20, 10:7, 10:9
approve [2] - 6:25, 10:9

approved [4] - 8:7, 10:25, 11:2, 11:3
April [1] - 8:24
april [1] - 1:10
architect [1] - 6:9
Area [1] - 2:8
area [2] - 3:20, 7:15
artery [1] - 9:6
attached [1] - 8:2
Attorney [1] - 1:18
attorney [1] - 2:9
AVENUE [1] - 1:5
Avenue [4] - 1:7, 2:5, 3:15, 9:23

B

backyard [1] - 10:16
based [1] - 4:6
best [1] - 5:2
between [1] - 3:5
bicycle [1] - 9:11
bicycling [1] - 4:20
big [1] - 6:8
birth [1] - 8:23
Bldg [1] - 1:19
board [1] - 6:15
Board [7] - 1:15, 1:16, 1:17, 2:12, 2:18, 3:10, 10:8
bothering [1] - 4:24
brick [1] - 3:25
brick-and-mortar [1] - 3:25
brother [1] - 4:21
Building [1] - 2:8
building [1] - 7:25

C

calisthenics [1] - 9:10
cannot [1] - 10:21
cardiologist [1] - 4:17
cardiovascular [1] - 9:5
care [1] - 9:5
carotid [1] - 9:6
Case [1] - 2:3
case [2] - 9:17, 9:18
Cedarhurst [6] - 1:7, 1:8, 2:5, 2:6, 3:2, 3:6
certify [1] - 12:9
Chairman [3] - 1:14, 3:11, 3:10
CHAIRMAN [14] - 2:2, 3:11, 7:3, 7:7, 7:11, 7:14, 7:24, 8:9, 8:19, 9:3, 9:16, 9:19, 10:5, 11:3

changes [1] - 10:20
clarify [1] - 8:3
CLARK [2] - 1:15, 10:25
clear [1] - 4:2
clearly [1] - 7:23
closely [1] - 4:14
Code [1] - 2:6
code [1] - 10:21
codes [1] - 2:7
collusion [1] - 2:21
comfortable [1] - 10:3
commercial [2] - 10:17, 10:22
Commission [2] - 3:7, 3:8

completely [1] - 10:3
concern [1] - 9:4
conditions [1] - 9:8
conflict [1] - 3:3
connected [4] - 2:25, 5:8, 8:4, 8:8
considerably [1] - 10:2
consideration [1] - 3:9
considered [1] - 7:25
constitute [1] - 3:3
contact [1] - 9:12
correct [2] - 8:12, 12:10
COUNTY [1] - 12:5
County [2] - 3:6, 3:7
cover [2] - 8:17

D

Danit [1] - 9:22

date [3] - 8:23, 8:25, 9:15

dated [1] - 8:24
DAVID [1] - 1:16
days [1] - 6:11
Dept [1] - 1:19
different [1] - 2:7
difficulty [1] - 4:6
discussed [1] - 10:2
Discussion [1] - 7:13
disease [1] - 9:9
dissection [1] - 9:6
door [2] - 8:6, 9:23
Dr [2] - 8:22, 9:4
duck [1] - 5:12
due [1] - 9:7
duly [1] - 2:21

E

EDELMAN [2] - 1:17, 11:2
employed [1] - 2:25
employees [1] - 3:2
enclosure [9] - 3:22, 5:6, 5:7, 5:9, 5:15, 5:16, 8:7, 8:15, 10:12
end [1] - 5:24
engagement [2] - 6:12, 6:23
enjoy [1] - 5:25
enlarged [1] - 4:13
entities [1] - 2:24
especially [1] - 4:25
evening [1] - 2:2
exceed [1] - 3:21
exceeding [1] - 3:19
executed [1] - 2:21
exercise [3] - 4:18, 5:3, 9:10
exhibit [1] - 13:4
Exhibit [1] - 9:14
EXHIBITS [1] - 13:2
explain [1] - 6:10
explained [1] - 6:14
eyesore [1] - 4:5

F

faces [1] - 10:16
family [1] - 4:20
far [1] - 3:16
father [1] - 4:21
favor [1] - 9:20
feet [4] - 5:13, 7:17, 7:20, 7:21
fence [6] - 4:3, 7:4, 7:6, 7:9
few [1] - 10:10

floor [1] - 6:21
foot [1] - 10:19
footage [1] - 3:23
FOR [2] - 1:2, 13:3
foregoing [1] - 12:9
forward [1] - 3:12
full [2] - 4:14, 12:10

G

General [1] - 2:19
given [1] - 3:8
Golbari [1] - 8:22
GOLDFEDER [3] - 1:18, 2:11, 8:3
guess [2] - 7:10, 10:15

H

hand [1] - 12:14
head [1] - 5:10
health [3] - 4:7, 4:11, 4:19
hear [1] - 2:18
hearing [1] - 2:15
Heart [1] - 8:21
heart [1] - 4:18
height [2] - 7:8, 10:18
hereby [1] - 12:9
hereunto [1] - 12:13
hesitate [1] - 9:11
higher [1] - 7:9
history [1] - 9:5
hope [1] - 6:14
hoping [1] - 6:24
house [5] - 5:7, 5:9, 8:2, 8:4, 8:10
husband [1] - 10:3
husband's [1] - 4:7

I

ID [1] - 13:3
ideally [1] - 5:2
identification [1] - 9:15
image [1] - 6:16
IN [2] - 1:3, 12:13
inches [2] - 7:8, 10:19
including [1] - 9:10
inside [1] - 5:16
internal [1] - 9:6
intrude [1] - 6:6
involved [1] - 2:24
Island [1] - 8:21
issues [2] - 4:21, 4:22
itself [2] - 5:13, 8:18

J

JARED [1] - 1:15
JEFFREY [1] - 1:4
Jeffrey [3] - 2:4, 8:23, 9:4
Julie [2] - 2:22, 3:13
jurisdiction [2] - 2:16, 2:18

K

KAPLAN [2] - 12:7, 12:17
KASS [9] - 1:4, 3:13, 7:5, 7:10, 7:22, 8:5, 8:12, 8:25, 9:18
Kass [5] - 2:4, 2:22, 3:13, 8:23, 9:4
Kasses [1] - 9:24
keep [1] - 6:5
Kleins [1] - 6:19
knee [2] - 4:20, 4:22
knees [1] - 4:24
known [1] - 9:6
KRENGEL [15] - 1:14, 2:2, 3:11, 7:3, 7:7, 7:11, 7:14, 7:24, 8:9, 8:19, 9:3, 9:16, 9:19, 10:5, 11:3

L

last [1] - 4:8
law [2] - 2:16, 3:4
Law [1] - 2:20
left [3] - 4:12, 5:11, 9:6
letter [4] - 8:20, 8:24, 8:25
Letter [2] - 9:14, 13:4
level [1] - 10:14
life [1] - 4:16
line [2] - 7:18, 7:21
live [1] - 9:23
local [1] - 2:14
look [2] - 6:8, 6:21
looking [1] - 3:21
low [1] - 5:22
lower [6] - 4:3, 5:19, 7:4, 7:7
luxuriant [1] - 5:5

M

mailing [1] - 2:13
March2 [1] - 2:20
marked [1] - 9:14
MATTER [1] - 1:3
maximum [1] - 10:18
medical [1] - 9:8

medication [1] - 4:15
MEIR [1] - 1:14
Member [3] - 1:15, 1:16, 1:17
members [2] - 2:11, 3:10
middle [1] - 5:9
missed [1] - 7:2
mixed [1] - 6:11
monitored [1] - 4:14
mortar [1] - 3:25
most [1] - 3:18
motion [2] - 10:9, 10:24
MR [6] - 2:11, 7:12, 8:3, 8:13, 10:24, 10:25
MS [10] - 3:13, 7:5, 7:10, 7:22, 8:5, 8:12, 8:25, 9:18, 9:22, 11:2
Municipal [1] - 2:20
muscle [1] - 4:12

N

name [3] - 3:12, 3:13, 9:21
Nassau [2] - 3:6, 3:7
necessary [1] - 2:17
need [1] - 5:17
neighbor's [1] - 6:9
neighbors [1] - 6:18
New [3] - 1:8, 2:19, 12:8
NEW [1] - 12:3
newspaper [1] - 2:14
next [2] - 6:16, 9:23
non [1] - 2:21
non-collusion [1] - 2:21
Notary [1] - 12:7
note [1] - 10:16
noted [1] - 11:4
notes [1] - 12:11
notice [1] - 3:8
notices [1] - 2:15
Number [2] - 2:3, 9:13
number [1] - 10:11

O

obtained [1] - 2:17
OF [3] - 1:3, 12:3, 12:5
officers [1] - 3:2
once [1] - 2:2
one [4] - 4:4, 7:3, 7:16, 10:11
ones [1] - 6:20
open [2] - 6:2, 8:18

opportunity [1] - 6:4
owner [1] - 3:11

P

p.m [2] - 1:11, 11:4
parking [1] - 10:17
part [1] - 5:18
parties [1] - 2:17
party [1] - 6:23
patient [3] - 8:23, 9:5, 9:9
patio [1] - 10:15
per [1] - 10:21
percent [3] - 3:20, 3:23, 3:24
perimeter [2] - 5:14, 7:6
permanent [1] - 8:14
Permitted [1] - 2:7
permitted [1] - 8:14
person [1] - 6:15
persons [1] - 2:23
photo [1] - 7:8
piece [1] - 5:23
Planning [2] - 3:7, 3:8
plans [2] - 9:25, 10:19
plastic [2] - 4:2, 8:7
platform [1] - 10:13
point [1] - 5:22
pool [14] - 3:22, 5:4, 5:13, 5:14, 5:15, 5:20, 5:24, 5:25, 8:15, 8:16, 8:18, 10:12, 10:13, 10:21
possible [2] - 5:6, 6:5
practical [1] - 4:6
prescribed [1] - 9:9
prevent [1] - 9:8
problem [1] - 9:24
proceedings [1] - 12:10
progression [1] - 9:8
proof [1] - 2:13
property [2] - 7:17, 10:14
proposed [2] - 10:19, 11:3
provided [1] - 2:13
Public [1] - 12:7
publication [1] - 2:14
purposes [1] - 10:22
pursuant [1] - 2:19
Pursuant [1] - 3:5
put [3] - 3:21, 7:6, 10:10

Q

QUEENS [1] - 12:5

questions [2] - 9:12, 10:8

R

raised [1] - 10:13
read [2] - 2:9, 8:19
really [3] - 4:19, 6:3, 6:17
rear [2] - 7:16, 10:17
Rear [1] - 2:8
reason [1] - 5:22
record [8] - 2:10, 2:12, 2:14, 7:12, 7:13, 8:20, 10:10, 12:9
referring [1] - 8:14
regain [1] - 4:12
regarding [3] - 3:16, 4:6, 8:22
rented [1] - 10:22
replacement [1] - 4:22
required [2] - 2:15, 7:17
rest [1] - 4:16
retract [1] - 8:15
retracted [1] - 8:17
retraction [1] - 8:9
retracts [1] - 8:10
riding [1] - 9:11
root [1] - 9:7
round [4] - 4:18, 5:17, 6:4, 9:9
run [1] - 4:23
running [1] - 4:19

S

second [4] - 4:9, 6:21, 10:23, 10:24
second-floor [1] - 6:21
Section [1] - 2:20
see [5] - 4:4, 6:8, 6:15, 6:17, 6:20
seek [1] - 5:5
seeking [5] - 2:5, 3:14, 3:16, 4:5, 7:16
service [1] - 5:16
serviceable [1] - 6:6
set [1] - 12:14
Shervin [1] - 8:22
SHIFRA [1] - 1:17
shot [1] - 4:9
show [1] - 6:16
shown [1] - 9:25
SHTEIERSMAN [2] - 1:16, 10:24
side [1] - 4:12
sides [1] - 6:20
signed [1] - 8:22

small [3] - 4:2, 6:5, 6:17

smallest [1] - 5:6
someone [1] - 4:10
sorry [1] - 6:9
sounds [1] - 3:24
Specialist [1] - 8:21
square [1] - 3:23
ss [1] - 12:4
stand [1] - 5:21
standing [1] - 6:16
starting [1] - 8:10
STATE [1] - 12:3
state [2] - 3:12, 9:21
State [2] - 2:19, 12:8
statement [2] - 2:10, 6:24
stenographic [1] - 12:11
step [3] - 3:12, 5:11
stop [1] - 4:23
straight [1] - 8:5
strictly [1] - 10:11
stroke [2] - 4:9, 5:2
structure [11] - 3:19, 3:25, 4:2, 7:19, 8:4, 8:13, 8:15, 8:16, 8:17, 10:18
suddenly [1] - 4:11
suffered [1] - 4:9
suggested [1] - 4:17
summer [1] - 5:25
SUMMIT [1] - 1:5
Summit [3] - 2:4, 3:15, 9:23
Supt [1] - 1:19
suri [1] - 6:22
surrounded [1] - 5:14
swim [3] - 5:17, 5:20, 6:4
swimming [1] - 9:10

T

table [1] - 4:14
THE [1] - 1:3
therein [1] - 12:12
thereof [1] - 3:10
three [1] - 2:7
Thursday [1] - 6:12
tonight [1] - 6:23
took [1] - 4:11
top [1] - 5:23
towards [1] - 8:10
transcript [1] - 12:11
tunnel [2] - 8:6, 8:8
two [2] - 4:9, 7:15

U

under ^[5] - 2:6, 3:3,
4:3, 5:21, 9:4
up ^[2] - 6:11, 7:6
useable ^[1] - 10:15
uses ^[1] - 4:12
Uses ^[1] - 2:8

V

vaccine ^[1] - 4:9
valve ^[1] - 4:13
VARIANCE ^[1] - 1:2
variance ^[4] - 2:6,
3:15, 3:16, 7:18
variances ^[1] - 7:15
Vascular ^[1] - 8:21
village ^[2] - 2:9, 10:21
Village ^[4] - 1:18, 2:6,
2:25, 3:6
vitamin ^[1] - 4:11

W

waived ^[1] - 3:9
walk ^[3] - 5:7, 5:8,
5:15
WAYNE ^[1] - 1:19
weeks ^[1] - 4:10
wherein ^[1] - 2:22
WHEREOF ^[1] - 12:13
wide ^[1] - 5:13
window ^[1] - 6:21
WITNESS ^[1] - 12:13
written ^[2] - 6:24, 9:2

Y

YAFFA ^[2] - 12:7,
12:17
yard ^[2] - 6:9, 7:16
Yards ^[1] - 2:9
YARNELL ^[3] - 1:19,
7:12, 8:13
year ^[5] - 4:8, 4:18,
5:17, 6:4, 9:9
year-round ^[3] - 4:18,
6:4, 9:9
YOEL ^[1] - 1:18
YORK ^[1] - 12:3
York ^[3] - 1:8, 2:19,
12:8

Z

ZERYKIER ^[1] - 9:22
Zerykier ^[1] - 9:22
Zerykiers ^[1] - 6:19
ZONING ^[1] - 1:2

1
2
3
4
5
6
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9
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APPLICATION FOR ZONING VARIANCE
IN THE MATTER OF
RONI AND ZAHAVA BENJAMINI
376 CHURCH AVENUE
Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

April 26, 2022

7:07 p.m.

B E F O R E:
MEIR KRENGEL, Chairman
JARED CLARK, Board Member
DAVID SHTEIERMAN, Board Member
SHIFRA EDELMAN, Board Member
YOEL GOLDFEDER, Village Attorney
WAYNE YARNELL, Supt. Bldg. Dept.

Proceedings - Benjamini

1
2 CHAIRMAN KRENGEL: Good evening,
3 everybody. The first case we have here today
4 is Case Number 14 of 2022. The application of
5 Roni and Zahava Benjamini, residing at 376
6 Church Avenue in Cedarhurst. They are
7 currently seeking a variance under Village
8 Code 265-125, Location Restricted.

9 As per variance 18 of 2018, they were
10 granted a variance to place an in-ground pool
11 10 feet to their property line and they are
12 now applying to modify that with the new
13 setback at the closest area to the lot line of
14 5 foot 7 inches, and they are also seeking a
15 variance from 265-12.1A, Fences on Residential
16 Properties. They were -- again, 2018 they
17 were granted the variance for a 6-foot fence
18 on the West Broadway side. Now they are
19 requesting a variance to increase the height
20 to eight feet. The village attorney will now
21 read a statement into the record.

22 MR. GOLDFEDER: Mr. Chairman, members of
23 the Board, for the record, we have been
24 provided with proof of the mailing and
25 publication in the local newspaper of record,

1 Proceedings - Benjamini
2 of all notices of this hearing as required by
3 law. Accordingly, jurisdiction has been
4 obtained over all necessary parties, and this
5 Board has jurisdiction to hear this appeal.

6 Pursuant to New York State General
7 Municipal Law Section 809, on March 18, 2022,
8 a non-collusion affidavit has been duly
9 executed by the applicant, Roni Benjamini,
10 wherein he stated that there are no other
11 persons or entities involved in this
12 application that are employed by or connected
13 to the Village of Cedarhurst, its officers, or
14 employees, which would in any way constitute a
15 conflict under the law.

16 Pursuant to an agreement between the
17 Village of Cedarhurst and Nassau County
18 Planning Commission, the Nassau County
19 Planning Commission has been given notice of
20 this application and has waived consideration
21 thereof. Mr. Chairman, members of the Board.

22 CHAIRMAN KRENGEL: Will the owner please
23 step forward? State your name and address.
24 Either one of you.

25 MR. BENJAMINI: Good evening. Roni

1 Proceedings - Benjamini
2 Benjamini, 317 Edward Avenue, Woodmere,
3 New York at the moment.

4 CHAIRMAN KRENGEL: State your case,
5 please.

6 MR. BENJAMINI: So when we first put
7 together the plans for this new construction,
8 the initial layout was done by our architect.
9 Once we started getting more into the
10 development of the pool with the actual
11 contractor, looking into the sizing of the
12 pool, you know, given the size of our family
13 and the recreational use that we are hoping to
14 make out of this, it made more sense to have a
15 larger pool than a smaller pool.

16 So that was the initial decision to move
17 forward to suggest a variance and to request
18 one, and when we looked into it further in
19 terms of the fence, just to create more
20 privacy because West Broadway is more of a
21 public thoroughfare, we would like to have a
22 fence to at least match what is there with the
23 synagogue behind us to create a -- more of a
24 sense of privacy.

25 CHAIRMAN KRENGEL: So I believe the

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Proceedings - Benjamini

closest spot is 5 foot 7 inches approximately,
right?

MR. BENJAMINI: Yes.

CHAIRMAN KRENGEL: The property is
irregular.

MR. BENJAMINI: It's like a trapezoid.

CHAIRMAN KRENGEL: What?

MR. BENJAMINI: Coming from I guess
Woodmere to Cedarhurst it's largest is about
10 feet.

CHAIRMAN KRENGEL: The furthest point
will be 10 feet?

MR. BENJAMINI: Furthest point would be
10-something. Even more I think actually.

CHAIRMAN KRENGEL: And you are talking
about height, your level is different than the
level of the --

MR. BENJAMINI: The property is elevated
about at least 12 inches.

CHAIRMAN KRENGEL: And there is a
retaining wall there.

MR. BENJAMINI: Currently what you have
there is wood blocking. That was there
previously. We are going to -- once we do the

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Proceedings - Benjamini

sidewalk over again, that could be a concrete curb.

CHAIRMAN KRENGEL: To become -- to raise it to your level?

MR. BENJAMINI: Yes.

CHAIRMAN KRENGEL: Any questions?

MR. GOLDFEDER: Just for clarification, you said you wanted to have it similar to the synagogue, but the synagogue's fence is on the rear of the property?

MR. BENJAMINI: Correct.

MR. GOLDFEDER: Not along West Broadway.

MR. BENJAMINI: Correct.

CHAIRMAN KRENGEL: What kind of material do you propose?

MR. BENJAMINI: Either PVC or whatever is acceptable.

CHAIRMAN KRENGEL: Any questions?

MR. SHTEIERMAN: Talking about a fence, we are only talking about a fence on West Broadway. How about the other sides of the pool? Is that part of this application or not? Meaning whatever we decide to approve, is that on the other sides?

1 Proceedings - Benjamini

2 CHAIRMAN KRENGEL: That would be to
3 code. We are only talking about the West
4 Broadway side. Everything else would be to
5 code.

6 MR. GOLDFEDER: Well, here is a map. So
7 I assume the highlighted in pink is where you
8 want to put the 8-foot fence.

9 MR. BENJAMINI: That's correct.

10 MR. GOLDFEDER: So that means it's along
11 the front of the property as well. Along the
12 front of the garage.

13 MR. SHTEIERMAN: Not seen here, it says
14 code-compliant fence. Is that part of the
15 application?

16 MR. GOLDFEDER: That was in the package.

17 MR. SHTEIERMAN: So it's L-shaped then.

18 CHAIRMAN KRENGEL: Is the height of the
19 front of the house the same as the side of the
20 house?

21 MR. BENJAMINI: Yes. Correct.

22 MR. SHTEIERMAN: So this L-shape, okay.

23 CHAIRMAN KRENGEL: So in theory,
24 whatever height we give you would really be
25 from the street higher.

1 Proceedings - Benjamini

2 MR. BENJAMINI: Yes.

3 CHAIRMAN KRENGEL: So just normally the
4 code is from the street.

5 MR. BENJAMINI: The code is from the
6 street.

7 CHAIRMAN KRENGEL: The street. So
8 whatever we give you it's really plus, so even
9 if we would say 5, it's really 6. Four is
10 really 5.

11 MR. BENJAMINI: Got it.

12 CHAIRMAN KRENGEL: So 8 is really 9
13 plus.

14 MR. BENJAMINI: Our intent would be to
15 really match what is already there with the
16 synagogue in the back. That would be fine for
17 us.

18 CHAIRMAN KRENGEL: Do you know how high
19 that is, Rabbi Ginzberg's fence is from level?
20 Is it from street?

21 MR. YARNELL: I don't know if Ginzberg's
22 fence has the raised foot like their property.

23 MR. SHTEIERMAN: Total height of the
24 fence?

25 MR. YARNELL: The fence is probably a

1 Proceedings - Benjamini

2 generic 8-foot fence, so the question is
3 whether you have the foot differential on the
4 rabbi's side as on Benjamini's side.

5 CHAIRMAN KRENGEL: Got you.

6 MR. SHTEIERMAN: The elevation says it's
7 lower.

8 CHAIRMAN KRENGEL: Lower.

9 MR. SHTEIERMAN: According to this,
10 Rabbi Ginzberg is 20.14. There is probably a
11 foot difference from this property to that
12 property and the West Broadway to this
13 property.

14 CHAIRMAN KRENGEL: So Rabbi Ginzberg is
15 lower.

16 MR. SHTEIERMAN: Lower. He is the
17 height of West Broadway according to this.

18 CHAIRMAN KRENGEL: Okay. Anybody would
19 like to speak in favor of? Or against? Okay.
20 So we are going to make a motion to approve
21 the new location of the pool and the fence
22 should be 6 feet from your side, which is
23 really more than grade. So 6 feet from your
24 property line and you will maintain the level
25 as is. So we will take a vote. With

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Proceedings - Benjamini

approving the pool moved as per the new application and the fence will be 6 feet from the grade -- the existing grade of the house, not from the grade.

MR. SHTEIERMAN: The grade of the property.

CHAIRMAN KRENGEL: Not from the street as is normally calculated.

MS. EDELMAN: Approved.

MR. SHTEIERMAN: Approved.

MR. CLARK: Approved.

CHAIRMAN KRENGEL: Approved. You have to go to Nassau County for the 239-F. They have to approve also on West Broadway.

(Discussion off the record.)

CHAIRMAN KRENGEL: The village code does not allow renting out the pool.

MR. BENJAMINI: One hundred percent.

(Time noted: 7:15 p.m.)

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Proceedings - Benjamini

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public
within and for the State of New York, do
hereby certify that the foregoing record of
proceedings is a full and correct
transcript of the stenographic notes taken
by me therein.

IN WITNESS WHEREOF, I have hereunto
set my hand this 8th day of May, 2022.

YAFFA KAPLAN

1

10 [3] - 2:11, 5:11, 5:13
10-something [1] - 5:15
12 [1] - 5:20
14 [1] - 2:4
18 [2] - 2:9, 3:7

2

20.14 [1] - 9:10
200 [1] - 1:8
2018 [2] - 2:9, 2:16
2022 [4] - 1:11, 2:4, 3:7, 11:14
239-F [1] - 10:14
26 [1] - 1:11
265-12.1A [1] - 2:15
265-125 [1] - 2:8

3

317 [1] - 4:2
376 [2] - 1:6, 2:5

5

5 [4] - 2:14, 5:2, 8:9, 8:10

6

6 [4] - 8:9, 9:22, 9:23, 10:3
6-foot [1] - 2:17

7

7 [2] - 2:14, 5:2
7:07 [1] - 1:12
7:15 [1] - 10:20

8

8 [1] - 8:12
8-foot [2] - 7:8, 9:2
809 [1] - 3:7
8ight [1] - 2:20
8th [1] - 11:14

9

9 [1] - 8:12

A

acceptable [1] - 6:18
according [2] - 9:9, 9:17

accordingly [1] - 3:3
actual [1] - 4:10
address [1] - 3:23
affidavit [1] - 3:8
agreement [1] - 3:16
allow [1] - 10:18
AND [1] - 1:5
appeal [1] - 3:5
applicant [2] - 1:6, 3:9
APPLICATION [1] - 1:3

application [6] - 2:4, 3:12, 3:20, 6:23, 7:15, 10:3
applying [1] - 2:12
approve [3] - 6:24, 9:20, 10:15
approved [4] - 10:10, 10:11, 10:12, 10:13
approving [1] - 10:2
april [1] - 1:11
architect [1] - 4:8
area [1] - 2:13
assume [1] - 7:7
attorney [1] - 2:20
Attorney [1] - 1:19
AVENUE [1] - 1:6
Avenue [3] - 1:8, 2:6, 4:2

B

become [1] - 6:4
behind [1] - 4:23
BENJAMINI [20] - 1:5, 3:25, 4:6, 5:4, 5:7, 5:9, 5:14, 5:19, 5:23, 6:6, 6:12, 6:14, 6:17, 7:9, 7:21, 8:2, 8:5, 8:11, 8:14, 10:19
Benjamini [3] - 2:5, 3:9, 4:2
Benjamini's [1] - 9:4
between [1] - 3:16
Bldg [1] - 1:20
blocking [1] - 5:24
Board [6] - 1:16, 1:17, 1:18, 2:23, 3:5, 3:21
Broadway [8] - 2:18, 4:20, 6:13, 6:22, 7:4, 9:12, 9:17, 10:15

C

calculated [1] - 10:9
case [2] - 2:3, 4:4
Case [1] - 2:4
Cedarhurst [6] - 1:8, 1:9, 2:6, 3:13, 3:17, 5:10

certify [1] - 11:9
Chairman [3] - 1:15, 2:22, 3:21
CHAIRMAN [27] - 2:2, 3:22, 4:4, 4:25, 5:5, 5:8, 5:12, 5:16, 5:21, 6:4, 6:7, 6:15, 6:19, 7:2, 7:18, 7:23, 8:3, 8:7, 8:12, 8:18, 9:5, 9:8, 9:14, 9:18, 10:8, 10:13, 10:17
CHURCH [1] - 1:6
Church [1] - 2:6
clarification [1] - 6:8
CLARK [2] - 1:16, 10:12
closest [2] - 2:13, 5:2
code [6] - 7:3, 7:5, 7:14, 8:4, 8:5, 10:17
Code [1] - 2:8
code-compliant [1] - 7:14
collusion [1] - 3:8
coming [1] - 5:9
Commission [2] - 3:18, 3:19

compliant [1] - 7:14
concrete [1] - 6:2
conflict [1] - 3:15
connected [1] - 3:12
consideration [1] - 3:20
constitute [1] - 3:14
construction [1] - 4:7
contractor [1] - 4:11
correct [5] - 6:12, 6:14, 7:9, 7:21, 11:10
COUNTY [1] - 11:5
County [3] - 3:17, 3:18, 10:14
create [2] - 4:19, 4:23
curb [1] - 6:3

D

DAVID [1] - 1:17
decide [1] - 6:24
decision [1] - 4:16
Dept [1] - 1:20
development [1] - 4:10
difference [1] - 9:11
different [1] - 5:17
differential [1] - 9:3
Discussion [1] - 10:16
done [1] - 4:8
duly [1] - 3:8

E

EDELMAN [2] - 1:18, 10:10
Edward [1] - 4:2
either [2] - 3:24, 6:17
elevated [1] - 5:19
elevation [1] - 9:6
employed [1] - 3:12
employees [1] - 3:14
entities [1] - 3:11
evening [2] - 2:2, 3:25
executed [1] - 3:9
existing [1] - 10:4

F

family [1] - 4:12
favor [1] - 9:19
feet [7] - 2:11, 2:20, 5:11, 5:13, 9:22, 9:23, 10:3
fence [15] - 2:17, 4:19, 4:22, 6:10, 6:20, 6:21, 7:8, 7:14, 8:19, 8:22, 8:24, 8:25, 9:2, 9:21, 10:3
Fences [1] - 2:15
fine [1] - 8:16
first [2] - 2:3, 4:6
foot [5] - 2:14, 5:2, 8:22, 9:3, 9:11
FOR [1] - 1:3
foregoing [1] - 11:9
forward [2] - 3:23, 4:17
four [1] - 8:9
front [3] - 7:11, 7:12, 7:19
full [1] - 11:10
furthest [2] - 5:12, 5:14

G

garage [1] - 7:12
General [1] - 3:6
generic [1] - 9:2
Ginzberg [2] - 9:10, 9:14
Ginzberg's [2] - 8:19, 8:21
given [2] - 3:19, 4:12
GOLDFEDER [7] - 1:19, 2:22, 6:8, 6:13, 7:6, 7:10, 7:16
grade [5] - 9:23, 10:4, 10:5, 10:6
granted [2] - 2:10, 2:17

ground [1] - 2:10
guess [1] - 5:9

H

hand [1] - 11:14
hear [1] - 3:5
hearing [1] - 3:2
height [6] - 2:19, 5:17, 7:18, 7:24, 8:23, 9:17
hereby [1] - 11:9
hereunto [1] - 11:13
high [1] - 8:18
higher [1] - 7:25
highlighted [1] - 7:7
hoping [1] - 4:13
house [3] - 7:19, 7:20, 10:4
hundred [1] - 10:19

I

IN [2] - 1:4, 11:13
in-ground [1] - 2:10
inches [3] - 2:14, 5:2, 5:20
increase [1] - 2:19
initial [2] - 4:8, 4:16
intent [1] - 8:14
involved [1] - 3:11
irregular [1] - 5:6

J

JARED [1] - 1:16
jurisdiction [2] - 3:3, 3:5

K

KAPLAN [2] - 11:7, 11:17
kind [1] - 6:15
KRENGEL [28] - 1:15, 2:2, 3:22, 4:4, 4:25, 5:5, 5:8, 5:12, 5:16, 5:21, 6:4, 6:7, 6:15, 6:19, 7:2, 7:18, 7:23, 8:3, 8:7, 8:12, 8:18, 9:5, 9:8, 9:14, 9:18, 10:8, 10:13, 10:17

L

L-shape [1] - 7:22
L-shaped [1] - 7:17
larger [1] - 4:15
largest [1] - 5:10
law [2] - 3:3, 3:15

Law [1] - 3:7
layout [1] - 4:8
least [2] - 4:22, 5:20
level [5] - 5:17, 5:18, 6:5, 8:19, 9:24
line [3] - 2:11, 2:13, 9:24
local [1] - 2:25
location [1] - 9:21
Location [1] - 2:8
looked [1] - 4:18
looking [1] - 4:11
lower [4] - 9:7, 9:8, 9:15, 9:16

M

mailing [1] - 2:24
maintain [1] - 9:24
map [1] - 7:6
March [1] - 3:7
match [2] - 4:22, 8:15
material [1] - 6:15
MATTER [1] - 1:4
meaning [1] - 6:24
means [1] - 7:10
MEIR [1] - 1:15
Member [3] - 1:16, 1:17, 1:18
members [2] - 2:22, 3:21
modify [1] - 2:12
moment [1] - 4:3
motion [1] - 9:20
move [1] - 4:16
moved [1] - 10:2
MR [38] - 2:22, 3:25, 4:6, 5:4, 5:7, 5:9, 5:14, 5:19, 5:23, 6:6, 6:8, 6:12, 6:13, 6:14, 6:17, 6:20, 7:6, 7:9, 7:10, 7:13, 7:16, 7:17, 7:21, 7:22, 8:2, 8:5, 8:11, 8:14, 8:21, 8:23, 8:25, 9:6, 9:9, 9:16, 10:6, 10:11, 10:12, 10:19
MS [1] - 10:10
Municipal [1] - 3:7

N

name [1] - 3:23
Nassau [3] - 3:17, 3:18, 10:14
necessary [1] - 3:4
NEW [1] - 11:3
new [4] - 2:12, 4:7, 9:21, 10:2
New [4] - 1:9, 3:6, 4:3,

11:8
newspaper [1] - 2:25
non [1] - 3:8
non-collusion [1] - 3:8
normally [2] - 8:3, 10:9
Notary [1] - 11:7
noted [1] - 10:20
notes [1] - 11:11
notice [1] - 3:19
notices [1] - 3:2
Number [1] - 2:4

O

obtained [1] - 3:4
OF [3] - 1:4, 11:3, 11:5
officers [1] - 3:13
once [2] - 4:9, 5:25
one [3] - 3:24, 4:18, 10:19
owner [1] - 3:22

P

p.m [2] - 1:12, 10:20
package [1] - 7:16
part [2] - 6:23, 7:14
parties [1] - 3:4
per [2] - 2:9, 10:2
percent [1] - 10:19
persons [1] - 3:11
pink [1] - 7:7
place [1] - 2:10
Planning [2] - 3:18, 3:19
plans [1] - 4:7
plus [2] - 8:8, 8:13
point [2] - 5:12, 5:14
pool [9] - 2:10, 4:10, 4:12, 4:15, 6:23, 9:21, 10:2, 10:18
previously [1] - 5:25
privacy [2] - 4:20, 4:24
proceedings [1] - 11:10
proof [1] - 2:24
Properties [1] - 2:16
property [11] - 2:11, 5:5, 5:19, 6:11, 7:11, 8:22, 9:11, 9:12, 9:13, 9:24, 10:7
propose [1] - 6:16
provided [1] - 2:24
public [1] - 4:21
Public [1] - 11:7
publication [1] - 2:25
Pursuant [1] - 3:16
pursuant [1] - 3:6

put [2] - 4:6, 7:8
PVC [1] - 6:17

Q

QUEENS [1] - 11:5
questions [2] - 6:7, 6:19

R

Rabbi [3] - 8:19, 9:10, 9:14
rabbi's [1] - 9:4
raise [1] - 6:4
raised [1] - 8:22
read [1] - 2:21
really [7] - 7:24, 8:8, 8:9, 8:10, 8:12, 8:15, 9:23
rear [1] - 6:11
record [5] - 2:21, 2:23, 2:25, 10:16, 11:9
recreational [1] - 4:13
renting [1] - 10:18
request [1] - 4:17
requesting [1] - 2:19
required [1] - 3:2
Residential [1] - 2:15
residing [1] - 2:5
Restricted [1] - 2:8
retaining [1] - 5:22
RONI [1] - 1:5
Roni [3] - 2:5, 3:9, 3:25

S

Section [1] - 3:7
seeking [2] - 2:7, 2:14
sense [2] - 4:14, 4:24
set [1] - 11:14
setback [1] - 2:13
shape [1] - 7:22
shaped [1] - 7:17
SHIFRA [1] - 1:18
SHTEIERMAN [11] - 1:17, 6:20, 7:13, 7:17, 7:22, 8:23, 9:6, 9:9, 9:16, 10:6, 10:11
side [6] - 2:18, 7:4, 7:19, 9:4, 9:22
sides [2] - 6:22, 6:25
sidewalk [1] - 6:2
similar [1] - 6:9
size [1] - 4:12
sizing [1] - 4:11
smaller [1] - 4:15
spot [1] - 5:2

ss [1] - 11:4
started [1] - 4:9
State [2] - 3:6, 11:8
STATE [1] - 11:3
state [2] - 3:23, 4:4
statement [1] - 2:21
stenographic [1] - 11:11
step [1] - 3:23
street [6] - 7:25, 8:4, 8:6, 8:7, 8:20, 10:8
suggest [1] - 4:17
Supt [1] - 1:20
synagogue [3] - 4:23, 6:10, 8:16
synagogue's [1] - 6:10

T

terms [1] - 4:19
THE [1] - 1:4
theory [1] - 7:23
therein [1] - 11:12
thereof [1] - 3:21
thoroughfare [1] - 4:21
today [1] - 2:3
together [1] - 4:7
total [1] - 8:23
transcript [1] - 11:11
trapezoid [1] - 5:7

U

under [2] - 2:7, 3:15

V

VARIANCE [1] - 1:3
variance [7] - 2:7, 2:9, 2:10, 2:15, 2:17, 2:19, 4:17
village [2] - 2:20, 10:17
Village [4] - 1:19, 2:7, 3:13, 3:17
vote [1] - 9:25

W

waived [1] - 3:20
wall [1] - 5:22
WAYNE [1] - 1:20
West [8] - 2:18, 4:20, 6:13, 6:21, 7:3, 9:12, 9:17, 10:15
wherein [1] - 3:10
WHEREOF [1] - 11:13
WITNESS [1] - 11:13

wood [1] - 5:24
Woodmere [2] - 4:2, 5:10

Y

YAFFA [2] - 11:7, 11:17
YARNELL [3] - 1:20, 8:21, 8:25
YOEL [1] - 1:19
YORK [1] - 11:3
York [4] - 1:9, 3:6, 4:3, 11:8

Z

ZAHAVA [1] - 1:5
Zahava [1] - 2:5
ZONING [1] - 1:3