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A P P E A R A N C E S

BOARD MEMBERS:

FRANK CASSIDY, CHAIRMAN
BEN FARABEE
LIN O'LEARY
LARRY ROSENFELD
PHILLIP ADAMS
JAY LEWIS (Via VC)

TOWN STAFF:

PATREA ST. JOHN

ON BEHALF OF THE BOARD OF ZONING APPEALS:

HAYNSWORTH SINKLER BOYD P.A.
BY: J. BOONE AIKEN, IV
134 Meeting Street, 3rd Floor
Charleston, SC 29401

1 MR. CASSIDY: I would like to call
2 to order the May 20th, 2024, meeting of the Town
3 of Kiawah Island Board of Zoning Appeals. My
4 name is Frank Cassidy. I'm the chairman of this
5 board, and the members who will hear your case
6 today besides myself are Ben Farabee, Phil Adams,
7 Larry Rosenfeld, Lin O'Leary, and virtually
8 Jay Lewis.

9 Staff members here today are
10 Patrea St. John. And Boone Aiken, our attorney,
11 will hopefully be joining us shortly.

12 Our case rulings for this and any BZA
13 meeting are available for public review and
14 inspection during normal business hours at Town
15 Hall. Since we're conducting this meeting
16 virtually via Zoom, please be reminded that so we
17 can get a clean and clear record for persons
18 listening live, it's important that all
19 participants not speak over one another. So if
20 you would like to speak, please do raise your
21 hand, and I'll recognize you.

22 At this time I would like to explain to
23 the public the workings of the BZA. The Board of
24 Zoning Appeals is a quasi judicial body
25 established to interpret and grant relief from

1 the zoning ordinance. The Board of Zoning
2 Appeals has jurisdiction over three types of
3 case; appeals, variances, and special exceptions.
4 Appeals are heard regarding administrative
5 actions and decisions by the zoning administrator
6 or staff. Variances may be granted when strict
7 application of the zoning ordinance would cause
8 an unnecessary hardship.

9 This board's actions must be based on
10 specific standards as contained in SC Local
11 Government Planning and Enabling Act of 1994 and
12 the Town of Kiawah Island zoning ordinance.
13 Special exceptions allow the board to permit uses
14 of certain conditions as contained in the zoning
15 ordinance. A simple majority vote of the quorum
16 present is required to grant a variance or to
17 overturn the decision of the zoning administrator
18 in an appeal or to grant a special exception.

19 Because today's hearing is a public
20 fact-finding hearing, we are in compliance with
21 the Freedom of Information Act and SC Code
22 6-29-70. 15 days prior to this hearing, an
23 announcement was printed in the Post and Courier;
24 a sign was posted on or near the designated
25 property; and a notice was mailed to the

1 applicant or representative, the residents within
2 500 feet of the application, and the parties of
3 interest, persons, organizations, and the news
4 media that have requested declaration have also
5 been notified. The Freedom of Information Act
6 does not require notification of anyone other
7 than the applicant and parties of interest.

8 Our purpose today is for interested
9 parties to be heard in order to assist the board
10 in gathering evidence pertinent to each case. If
11 the members of the BZA feel the need for further
12 information to clarify a case, the board has the
13 authority to subpoena witnesses.

14 In addition to your testimony, our board
15 has been presented with written information
16 submitted to the staff by the applicant or their
17 agent for this case. This information is now
18 considered to be evidence and is entered into the
19 permanent record of this body.

20 It is assumed that this is complete,
21 true, and accurate. Also we have been presented
22 data assembled by the staff for the purpose of
23 clarifying the location and the effect on
24 surrounding property. Our board is empowered to
25 approve, approve with conditions, or deny your

1 request. In granting a variance, the Board of
2 Zoning Appeals may attach to it such conditions
3 regarding the location, character, or other
4 features of the proposed building, structure, or
5 use as the board may consider advisable to
6 protect established property values in the
7 surrounding area or to promote public health,
8 safety, and general welfare.

9 We are authorized to defer a case should
10 we -- should there be a need to obtain additional
11 information. If an applicant's request is
12 approved for a special exception, a variance, or
13 an appeal decision by the zoning administrator,
14 they must go to the Town of Kiawah Island to
15 apply for permits. Variances and special
16 exceptions granted by the BZA are valid for 12
17 months after this meeting; however, if an
18 applicant's request is disapproved and they wish
19 to appeal the decision by the board concerning
20 this case, appeals must be addressed to the
21 circuit court.

22 SC 6-29820 states that the appeal must
23 be filed by the applicant within 30 days after
24 the decision of the board is mailed to them.
25 Failure to file an appeal within the time limit

1 deprives the court of jurisdiction to hear this
2 matter.

3 Because this is a quasi judicial body,
4 everything said in this meeting must be complete,
5 true, and accurate. All of the information
6 provided by the BZA is considered evidence, and
7 this board may certify contempt of circuit court
8 if false statements are made either in writing or
9 orally.

10 Staff has placed a sign-up sheet for any
11 person wishing to address the board, which we
12 will call individuals one by one to approach the
13 board for comments. Remember to speak into the
14 microphone so that the record is clear and
15 accurate.

16 Also be reminded that all persons
17 wishing to speak shall direct their comments to
18 the board, not the applicant or other speakers or
19 parties of interest.

20 Are you Boone, sir?

21 MR. AIKEN: Mr. Cassidy, how are
22 you?

23 MR. CASSIDY: Okay. Because of
24 this, each person wishing to address the board
25 will be sworn in. To expedite this procedure, I

1 would ask those of you who will be speaking to
2 stand as a group and Boone will administer the
3 oath.

4 MR. AIKEN: Thanks, Chairman. Good
5 afternoon, everyone. I see everyone is standing.
6 Please raise your right hand for me. Do you
7 affirm that the testimony you're about to give is
8 the truth, the whole truth, and nothing but the
9 truth, so help you God?

10 (Multiple witnesses affirm oath.)

11 MR. AIKEN: Thanks, everyone.

12 Mr. Chairman, I will turn it back over
13 to you.

14 MR. CASSIDY: Thank you, Boone.

15 I shall now call case BZA 24-000005 at
16 187 Ballybunion. Staff will present facts
17 pertinent to the case. I shall then call the
18 applicant to address the case. If the applicant
19 will please stand at the podium and state your
20 name and current address for the record before
21 presenting testimony.

22 I will then ask for all of those
23 speaking in support or opposed to speak. They'll
24 be limited to three minutes each, and the
25 applicant will have the opportunity for rebuttal.

1 Patrea, you're up.

2 MS. ST. JOHN: Good afternoon. So
3 this is for case BZA 24-000005. I think I got
4 the right number. Applicant owner is the
5 Pennell-Reed Family Trust. The representative is
6 Jeff Forte. Location is at 187 Ballybunion
7 Drive. TMS parcel number is 2651300032. The
8 zoning district is R1, residential zoning
9 district. The lot size is 40, 40 square feet,
10 approximately .95 acres. The request, there's a
11 variance request for the reduction of the
12 required 50-foot rear setback for approximately
13 162 square feet encroachment for a proposed pool
14 addition.

15 The Town of Kiawah Island Land Use
16 Planning and Zoning Ordinance requires a 70-foot
17 front setback off of Ballybunion Drive, 15-foot
18 side setback off of lot 186, a 25-foot setback
19 off of lot 188, and a 50 feet rear setback. The
20 subject property has a maximum lot coverage of 33
21 percent.

22 This is the zoning map. The lot is
23 approximately 40,540 square feet in size. Per
24 Charleston County records, the single-family
25 residence was constructed in 1999. The adjacent

1 properties to the north, south, east, and west
2 are all also located in R1 residential district.
3 There is a 15-foot pedestrian access easement
4 located northeast of the property across
5 Ballybunion property. The Saint John's Fire
6 Station Number 6 is located roughly 500 feet
7 north of the subject property. The subject
8 property is subject to review by the Kiawah
9 Island Architectural Review Board.

10 Here's an aerial view with the parcel
11 outlined in red. And then here's one showing a
12 bit more of the property.

13 So a site visit was conducted on May 3,
14 2024, and took the following site photos. This
15 is at the front. To the right is the accessory
16 dwelling unit. These are to the -- to each
17 property side. This is in the rear of the
18 property. You see the orange tape showing the
19 requested variance. This is looking rear. The
20 one on the right is to the side to the vacant
21 lot, lot 186.

22 Again, some more to the rear. These
23 are -- on the left side is the current site plan,
24 and on the right side is the proposed site plan.
25 This is an enlargement of the area that we're

1 discussing. The applicant's plans include a pool
2 and deck extending south from the existing rear
3 deck. Approximately 162 square feet of the
4 proposed pool encroaches into the required rear
5 setback. The proposed deck does not encroach
6 into the rear setback. The proposed pool extends
7 approximately 14 feet into the required rear
8 setback. The existing lot coverage is
9 approximately 29 percent, and the proposed lot
10 coverage is approximately 30.9 percent.

11 Applicant submitted to the Kiawah Island
12 Architectural Review Board on April 3 and was
13 granted preliminary approval for permit submittal
14 with the following conditions: Quote, The view
15 corridor for this property angles south on the
16 south southeast facing lot, and the existing
17 house was designed in response to this petition.
18 The variance for a pool or deck at the level of
19 the elevated first floor to go over the rear
20 setback that's shown on the attached site plan is
21 next to two driveway corridors. It's well
22 screened and would have no material impact on
23 neighboring properties. The variance is
24 approved, end quote.

25 This is a rendering for that proposal.

1 So variance approval criteria. Staff findings:
2 The site visit was conducted on May 3, 2024, at
3 which time the following findings were made
4 regarding the approval criteria for variances as
5 stated in Chapter 12 Town of Kiawah Island Land
6 Use Planning and Zoning Ordinance.

7 Number 1 -- or A, there are
8 extraordinary and exceptional conditions
9 pertaining to the particular piece of property.

10 There may be extraordinary and
11 exceptional conditions pertaining to the property
12 due to the home being constructed out of line
13 with the setbacks. Per the applicant's letter of
14 intent, quote, The current home was originally
15 sited at a slight angle from the side property
16 and the side setback lines. This original angled
17 siting is the driving factor for our request for
18 the slight variance of the rear setback of the
19 home.

20 B, these conditions do not generally
21 apply to other property in the vicinity.
22 Existing structures in the vicinity may or may
23 not have similar circumstances based on current
24 setback standards. These conditions may be
25 unique to the property -- to the subject property

1 and may not generally apply to other properties
2 in the vicinity. The subject property is unique
3 in that the home was constructed with ARB review
4 to integrate the built environment into the
5 natural surroundings.

6 C, because of these conditions, the
7 application of this ordinance to the particular
8 piece of property would effectively prohibit or
9 unreasonably restrict the application of -- the
10 utilization of the property. The application of
11 this ordinance to 187 Ballybunion Drive would
12 restrict the construction of the proposed pool as
13 the structure encroaches into the required
14 50-foot rear yard setback; however, it does not
15 unreasonably restrict the utilization of the
16 property. Per the applicant's letter of intent,
17 quote, It is our intent to update the home and
18 add a very straightforward, simple, narrow
19 swimming pool to the rear, end quote.

20 D, the authorization of a variance will
21 not be of substantial detriment to adjacent
22 property or to the public good, and the character
23 of the zoning district will not be harmed by the
24 granting of the variance. The proposed pool
25 encroaches into the setback by approximately

1 14 feet with a total additional encroachment of
2 162 square feet for the proposed pool; however,
3 due to the positioning of the house, the proposed
4 pool and deck will remain screened from neighbors
5 and may not be of substantial detriment to the
6 adjacent properties, public good, and the
7 character of the zoning district.

8 Per the applicant's letter of intent,
9 quote, This site is currently buffered by very
10 dense and natural trees and plant material.
11 There are no existing trees that will be impacted
12 by adding this proposed swimming pool. No
13 neighbors, current or future, will be impacted in
14 any way by granting this variance.

15 E, the Board of Zoning Appeals will not
16 grant a variance that the effect of which would
17 be allowed the establishment of a use not
18 otherwise permitted in a zoning district, to
19 extend physically a nonconforming use of land, or
20 to change the zoning district boundaries shown on
21 the official zoning map. Granting of this
22 variance would not allow the establishment of a
23 use not otherwise permitted in the zoning
24 district, extend physically a nonconforming use
25 of land, or change the zoning district

1 boundaries.

2 F, the fact that property may be
3 utilized more profitably should a variance be
4 granted may not be considered grounds for a
5 variance. Profitability may not be considered
6 grounds for this variance request.

7 G, the need for the variance shall not
8 be the result of the applicant's own actions.
9 Per Charleston County records, the property was
10 acquired by Gloria Pennell in 2003. The need for
11 the variance may not be the result of the
12 applicant's own actions.

13 And then H, granting the variance will
14 not be contrary to the public or neighborhood
15 interests, nor will it adversely affect other
16 property in the vicinity nor interfere with the
17 harmony, spirit, intent, and purpose of these
18 regulations.

19 Staff believes this variance request
20 fulfills criteria H. Per the applicant's letter
21 of intent, quote, The requested variance will in
22 no way negatively impact the community or
23 neighborhood, end quote.

24 And then finally, granting of the
25 variance did not -- does not substantially

1 conflict with the comprehensive plan or the
2 purposes of this ordinance. Granting of the
3 variance may not substantially conflict with the
4 comprehensive plan or the purposes of the
5 ordinance. The applicant's proposed plans do not
6 exceed the maximum lot coverage.

7 And then finally, the Board of Zoning
8 Appeals action: The Board of Zoning Appeals may
9 approve, approve with conditions, or deny case
10 BZA 24-000005, variance request for the reduction
11 of the required 50-foot rear setback for
12 approximately 162 square feet encroachment for a
13 proposed pool additional based on the BZA's
14 findings of fact unless additional information is
15 deemed necessary to make an informed decision.

16 MR. CASSIDY: Thank you Patrea.

17 Questions for Patrea?

18 MR. FARABEE: Just to clarify, the
19 staff report says built in '99. Mr. Dewberry's
20 letter says built in '97. Which one is it?

21 MS. ST. JOHN: According to
22 Charleston's records per the staff report, it's
23 '99.

24 MR. CASSIDY: Anything else for
25 Patrea?

1 Okay. We'll hear from the applicant,
2 please.

3 MR. DEWBERRY: Thank you,
4 Mr. Chair. My name is Darryl Dewberry.
5 Notwithstanding what the data said that it was
6 going to be Jeff Forte, I actually am the buyer
7 of the house, and I am the applicant's
8 representative per the paperwork that was
9 submitted earlier last week or two weeks ago, I
10 think, on the 12th. So that's the reason I'm
11 here instead of Jeff.

12 I think you've heard pretty much
13 everything. There is one additional piece of
14 information. We did contact the owner to the
15 south of us, the Arledges. Their lot is
16 adjoining our lot, and that's where the
17 encroachment occurs. And there is a letter in
18 your package in support of this from Mr. Arledge
19 and his wife Diane. They've been very gracious
20 in providing that and are happy to chat with you
21 further if y'all would like to do that. So I'm
22 here to answer any questions if there's anything
23 that you want to ask of me.

24 MR. CASSIDY: Let me just ask: The
25 purchaser of this property is the Pennell-Reed

1 Family Trust?

2 MR. DEWBERRY: The owner is -- or
3 the owner's rep since he passed is the trust, and
4 then they conveyed the authority for me to
5 represent them in the paperwork that was
6 submitted on the 12th of April, I think. But I
7 can also look at that.

8 MR. ROSENFELD: You're currently
9 doing construction on the house, correct?

10 MR. DEWBERRY: We're not. We close
11 actually next month, first part of next month.

12 MR. CASSIDY: This is eventually
13 going to be your house?

14 MR. DEWBERRY: Yes, it is. My wife
15 and I are buying the house.

16 MR. CASSIDY: Now I understand.

17 MR. DEWBERRY: That's right. I'm
18 sorry. Yes, we are. I'm a contractor buying the
19 house.

20 MR. ROSENFELD: Because as of about
21 an hour ago, there were about 10 construction
22 trucks that were --

23 MS. O'LEARY: That's the neighbor.

24 MR. DEWBERRY: That's a new
25 construction going up. Nothing's been done on

1 this house yet.

2 MS. O'LEARY: I just have a quick
3 question, if I may, please, Darryl. It says no
4 trees will be damaged or moved, but if I look at
5 the back, my question is: It looks like these
6 crepe myrtles that are in that rectangular area
7 are going to be close to the pool. Is that
8 something you're going to be saving, moving?

9 MR. DEWBERRY: Oh, we're -- my wife
10 would kill me if we don't save crepe myrtles. So
11 we are going to take a few of the shrubs out of
12 that area behind -- between the crepe myrtles
13 because there are a number of crepe myrtles on
14 that site --

15 MS. O'LEARY: Okay.

16 MR. DEWBERRY: -- and we're going
17 to move them back about 5 feet.

18 MS. O'LEARY: Okay. I just wanted
19 to confirm that --

20 MR. DEWBERRY: We're not moving the
21 crepe myrtles.

22 MS. O'LEARY: -- because you had
23 said no trees were going to be, you know, moved
24 or damaged.

25 MR. DEWBERRY: Yeah.

1 MS. O'LEARY: When I walked back
2 there, I thought those crepes are really close to
3 that line.

4 MR. DEWBERRY: They're stunning.
5 So --

6 MS. O'LEARY: Okay.

7 MR. ROSENFELD: If I'm correct,
8 prior to the meeting when we were up here
9 talking, you said that he was the designer of the
10 home or the builder?

11 MR. DEWBERRY: Yeah, Mitch Laplante
12 is the original architect for the home and worked
13 with Mr. Pennell and his wife to design the
14 house. And so I found him in Tampa. He's
15 retired and moved to Tampa. And he's been
16 gracious enough to come back out here and help us
17 with this.

18 MR. ROSENFELD: Will you be
19 answering questions?

20 MR. LAPLANTE: Pardon?

21 MR. ROSENFELD: Will you be
22 answering questions?

23 MR. LAPLANTE: Absolutely.

24 MR. CASSIDY: You're not going to
25 make a direct presentation, correct?

1 MR. LAPLANTE: No. Just answer
2 questions.

3 MR. CASSIDY: Okay.

4 MR. ROSENFELD: My particular thing
5 is zoning laws exist for a reason. Setback laws
6 exist for a reason, and my record here is always
7 the fact that I'm the one who creates more stress
8 for all of you because I object to virtually
9 every one of these.

10 My question is -- when I walked the
11 line -- my question is: The house was situated
12 very far towards the back, further than it would
13 have been required by the front 70-foot setback
14 rule, and there's a huge area between the -- what
15 I would call the guest house and the actual home.
16 You designed the home. I assume that somewhere
17 in there you thought perhaps a pool might be
18 added later on. And why did you not position the
19 home so that the pool could then be put in within
20 the extant 50 foot setback line and especially
21 not going near the OCRM line man?

22 I don't understand why. If you could
23 put up the small detail plot line first. Go back
24 one. The prior one, that one. Why could you not
25 shift the pool to the west and eliminate going

1 into that triangle and eliminate the outdoor deck
2 next to it, at which case you would not violate
3 the zoning laws or come close or even surpassing
4 the OCRM line? I mean, these lines are there for
5 a reason. Obviously that's why they put them in
6 the code, and I don't understand why the house
7 was positioned so far back that, had it been
8 positioned in this case I believe it's 13.6 feet
9 further forward, would not have really interfered
10 in the amount of space between the guest house
11 and the regular house, and you still have the
12 room to put a pool in.

13 You would think that considering the
14 fact that most houses around here are built with
15 plans for pools or built originally with pools, I
16 don't understand why you did not do that unless
17 my pessimistic side says that you decided, Well,
18 we'll just force the issue later on once the
19 house is built.

20 MR. LAPLANTE: May I respond now?

21 MR. ROSENFELD: It's a nine-point
22 question. Why don't you just shift the house to
23 the side? That way you don't interfere into the
24 setback.

25 MR. LAPLANTE: I'm trying to keep

1 track of points.

2 MR. CASSIDY: Go to the microphone,
3 please and state your name and address.

4 MR. LAPLANTE: My name is
5 Mitch -- my name is Mitch Laplante. I'm an
6 architect. I moved to Kiawah in 1991. So I have
7 31 years, designed a number of homes. First, to
8 go a bit backwards, in 1991, I bet you 25 percent
9 of the homes had pools, not -- it was very
10 uncommon. It was more common to have a home
11 without a pool than with a pool. That's one
12 point.

13 Second point, on the last -- the
14 landscape architecture done for the site was done
15 by a gentleman named Robin Marvin, who was the --
16 considered the dean of southern landscape
17 architecture. He wanted to preserve the front
18 natural environment as much as possible because
19 there's some very large oak trees. So the oak
20 trees were given precedent to move the house
21 forward a little bit. The house was slightly
22 cantered because the Pennells, believe it or not,
23 were almost 70 years old when we designed this
24 house, and they wanted to look at the western
25 sunset when they laid out. So we slightly

1 improved the view. But it was done for those
2 reasons, but there was never intent on their part
3 to put a pool in. But now the only logical
4 solution is what we have before us for a pool.
5 But the trees were a big factor for the Pennells
6 at that time as well as the landscape architect
7 at that time.

8 MR. CASSIDY: Just a point of
9 clarification, I know that the setback line is in
10 play here. I wouldn't have -- I don't remember
11 reading that the OCRM line is in there.

12 MR. ROSENFELD: It's right here.

13 MR. LAPLANTE: No, it's not. No,
14 it's not, sir.

15 MR. CASSIDY: It really can't be
16 because there's a flag lot behind it.

17 MR. LAPLANTE: If it was, the whole
18 lot in front of it would be in play.

19 MR. CASSIDY: There's no OCRM on
20 the house, period?

21 MR. FARABEE: There's another house
22 there.

23 MR. ROSENFELD: There's another
24 house behind it, but it actually does have an
25 OCRM line.

1 MR. CASSIDY: You can't because
2 there's another house back there.

3 MR. LAPLANTE: This is a back flag
4 lot.

5 MR. CASSIDY: What is the black
6 line that's shown on here?

7 MR. LAPLANTE: That's a
8 flood -- that's the elevation where the house
9 should be elevated off the ground. I believe the
10 house exceeds that anyway.

11 MR. CASSIDY: Okay.

12 MR. LAPLANTE: And those shrines
13 changed in the history of Kiawah anyway.

14 MR. CASSIDY: Other questions?
15 Yes, sir?

16 MR. FARABEE: The size of the pool
17 is 56-by-13 and a half; is that right?

18 MR. LAPLANTE: Approximately, yes,
19 sir.

20 MR. DEWBERRY: Well, a portion of
21 that is actually decking because there's no
22 sunlight that gets -- we wouldn't have -- we
23 wouldn't have chairs in the sun. So a fourth of
24 it is a deck for pool chairs.

25 MS. ST. JOHN: Here's the rendering

1 here.

2 MR. LAPLANTE: The red indicates
3 the change of scope, and you can see that it's a
4 very modest deck here.

5 MR. FARABEE: My question being --
6 is: One it's a very large pool; and two, you're
7 requesting a variance. And I'm just wondering
8 what options did you look at so that you could
9 avoid a request for a variance so that you
10 wouldn't have to come here? But that's
11 a -- that's a probably larger-than-average pool
12 on Kiawah than I've seen.

13 MR. DEWBERRY: Well, we
14 have -- honestly, we have four kids, a couple of
15 which are married, and we have a lot of family
16 that visit. So we wanted a pool that was big
17 enough in keeping with the -- we have seven
18 bedrooms. So it was partially that we wanted
19 enough space. And then we wanted some outdoor
20 seating area. So if we -- if we move the pool
21 down, we would eliminate any sunlight that
22 would -- the kids could get sun. I don't see the
23 sun very much anymore but they do. So --

24 MR. FARABEE: So you entertained no
25 options to --

1 MR. DEWBERRY: Well, we looked at
2 it, but once we squeezed it in, the pool was
3 really small at that point, smaller than -- I
4 think it was 13 and a half by, like, 14 or
5 something like that. It was more or less a
6 square.

7 MR. FARABEE: But you described the
8 variance as pretty slight. So I think I'd
9 describe the pool would be pretty large.

10 MR. LAPLANTE: Well, it's the
11 geometry that's the prevailing factor, not the
12 total area. The geometry of the pool is severely
13 affected by that small triangle.

14 MR. FARABEE: Yeah. Well, I've
15 seen all size pools here.

16 MR. DEWBERRY: I understand.

17 MR. CASSIDY: Other questions?

18 MR. ADAMS: Is there any intent to
19 put this house in a rental pool?

20 MR. DEWBERRY: No, never, as long
21 as I own it. And I intend to own it for the
22 duration.

23 MR. CASSIDY: Any others? Jay, you
24 okay?

25 Okay. In that case, I would entertain

1 any motions that anyone would like to make.

2 MR. ADAMS: Move to approve.

3 MR. CASSIDY: There's a motion to
4 approve the variance. Is there a second?

5 MS. O'LEARY: Second.

6 MR. CASSIDY: Motion is moved and
7 seconded. Any further discussion?

8 Okay. We will then -- in that case
9 we'll vote. Ben?

10 MR. FARABEE: Yes.

11 MR. CASSIDY: Lin?

12 MS. O'LEARY: Yes.

13 MR. CASSIDY: Phil?

14 MR. ADAMS: Yes.

15 MR. CASSIDY: Larry?

16 MR. ROSENFELD: No.

17 MR. CASSIDY: Jay?

18 MR. LEWIS: Yes.

19 MR. CASSIDY: And Frank, yes. So

20 the vote is 5 to 1 to approve. The variance is

21 approved. And the reason for that approval is

22 that this seems to be a reasonable accommodation

23 due to the original orientation of the house.

24 Yes, maybe it could have been done differently,

25 but that was a long time ago, and the site of the

1 pool isn't extremely secluded. And so this is
2 not going to have any effect on the neighboring
3 properties.

4 MR. ADAMS: And the neighbors are
5 okay with it.

6 MR. CASSIDY: Yeah, and the
7 neighbors are okay with it.

8 So, folks, good luck with this. Looks
9 like a very nice addition.

10 MR. DEWBERRY: Thank you. Thank
11 you very much, board.

12 MR. CASSIDY: Our next piece of
13 business -- next and final piece of business is
14 the -- is the revisions to the -- the -- to our
15 rules and procedures. I did -- as you know, I
16 was not present at the last meeting. I have
17 watched the YouTube video of it, and I think
18 it -- I think the -- where you ended up, which is
19 with very minor revisions. I think after we
20 talked through a lot of stuff, I think, is the
21 right place myself. So we can -- we can go ahead
22 and approve this. Is everybody good with it?
23 But let's first see if there's any further
24 discussion. Lin?

25 MS. O'LEARY: Frank, I talked to

1 John about this, and I think you guys did as
2 well. Number 20 just seemed to be incorrect.
3 The board members may participate virtually in
4 meetings where there are no applications to be
5 considered. We don't normally have meetings if
6 there's no applications. So I talked to John,
7 and he said that was going to be reworked.
8 And -- and it's not in here. So I think that's
9 still -- number 20 is counterintuitive to what
10 Mr. Jay's doing at the moment.

11 MR. ADAMS: I agree. So in
12 addition, the implications of it is so that board
13 members may not participate virtually where there
14 are applications to be considered.

15 MS. O'LEARY: Yeah. It just didn't
16 make any sense.

17 MR. CASSIDY: Earlier on we
18 eliminated the restrictions on virtually
19 participating.

20 MS. O'LEARY: Correct. So that is
21 why I just thought --

22 MR. CASSIDY: I think what we need
23 to do is eliminate number 20.

24 MR. ROSENFELD: I think the
25 discussion came out about training sessions also

1 as being a meeting when we just have a training
2 session and not a case. And they said they
3 wanted to be available or did they want people to
4 give training sessions by Zoom.

5 MR. CASSIDY: Okay.

6 MR. ROSENFELD: We never really
7 made a decision.

8 MR. CASSIDY: All right. So we'll
9 eliminate number 20. Any other comments,
10 questions? Yeah, Ben?

11 MR. FARABEE: Yeah, I have several.
12 Under membership, I think -- I think that the
13 members of the BZA should be property owners.
14 That was included in the original document we saw
15 from the town council that said property owners
16 where it doesn't require -- I could be a renter
17 and be on this committee.

18 MR. ROSENFELD: I agree with you.

19 MS. O'LEARY: I'm sorry. I missed
20 that. Where was that one? I apologize.

21 MS. ST. JOHN: Under membership.

22 MR. FARABEE: Yeah, under
23 membership. It'd be the fourth line. The
24 resident member shall be a person who resides
25 personally. I'd say it should say property owner

1 who resides permanently --

2 MR. CASSIDY: Yeah, that's the
3 intent.

4 MR. ADAMS: -- as opposed to
5 somebody who is not a --

6 MR. FARABEE: Because we do say it
7 about the part-timers.

8 MS. ST. JOHN: Yeah, we're going to
9 have it recorded, so we'll go back and get it
10 all.

11 MR. ADAMS: Suppose I sign a
12 three-year lease to live here as a tenant.

13 MR. CASSIDY: I would say no. It's
14 the property owner.

15 MR. ADAMS: It's not a one-week
16 thing. It's --

17 MS. O'LEARY: But it's not your
18 actual address.

19 MR. ROSENFELD: You have to be
20 someone who's got a real investment to the
21 island.

22 MS. O'LEARY: If you're -- if it's
23 not your address, even if it's a lease, you have
24 an address somewhere else. So then you wouldn't
25 be a registered voter.

1 MR. ADAMS: Not necessarily. I
2 lived for 10 years in New York City as a resident
3 where I leased the apartment I lived in. I
4 didn't own it, is the point. I mean, it is
5 possible to rent, not own, your principal
6 residence.

7 MR. CASSIDY: Yeah, let me --

8 MR. ADAMS: That's my point.

9 MR. CASSIDY: Let me just clarify,
10 Lin. We have already permitted two people who
11 are nonvoters on the board. They have to be
12 property owners.

13 MS. O'LEARY: Okay.

14 MR. CASSIDY: That's people who are
15 here less than 6 months.

16 MS. O'LEARY: Less than 6 months.
17 Okay.

18 MR. CASSIDY: Any others?

19 MS. O'LEARY: And how does that
20 affect the fact they're -- if they're here less
21 than 6 months then half the time they're virtual
22 for the meetings. So that's acceptable then?
23 That's what we're doing? Does that make -- does
24 that question make sense?

25 MR. CASSIDY: Well, we had -- we

1 eliminated --

2 MR. LEWIS: I thought there was an
3 80 percent threshold.

4 MS. O'LEARY: I'm sorry, Jay?

5 MR. LEWIS: I thought there was an
6 80 percent threshold that you had to be present
7 for the meetings. The other 20 percent you could
8 be virtual.

9 MS. O'LEARY: That's exactly --
10 that's what we agreed on.

11 MR. CASSIDY: Is that in here
12 somewhere, Lin?

13 MS. O'LEARY: Yes, it's in here
14 that you had to be 80 percent in person and 20
15 percent can be virtual. I can tell you where it
16 is.

17 MR. CASSIDY: As long as it's in
18 there.

19 MR. ROSENFELD: 80 percent is
20 number one on the board members thing.

21 MR. ADAMS: I think the --

22 MR. ROSENFELD: Expected to
23 attend --

24 MR. CASSIDY: Okay.

25 MR. ROSENFELD: -- 80 percent.

1 MR. CASSIDY: At least 80 percent.

2 MR. ADAMS: That doesn't
3 necessarily limit it.

4 MR. CASSIDY: That doesn't
5 necessarily -- do we mean --

6 MR. ROSENFELD: It doesn't
7 necessarily say attending virtually or
8 physically. It just says attend.

9 MR. FARABEE: No, number 3 under
10 that that was eliminated, for some reason, but
11 the first two sentences clarifies that on page 3
12 under -- under item 3 permits the virtual
13 attendance.

14 MR. ROSENFELD: Mm-hmm.

15 MR. FARABEE: And I don't know why
16 that was eliminated. I agree with eliminating
17 the last sentence of 3, but not the first two.

18 MR. CASSIDY: I'm okay with leaving
19 that first two sentences in. We can define what
20 exceptional circumstances mean.

21 MR. FARABEE: I think the advantage
22 of it is to clarify the virtual element being
23 here, which we do a lot now.

24 MR. CASSIDY: All right. So we'll
25 leave the -- we'll leave the first two sentences

1 of number 3 in. Any others?

2 MR. FARABEE: Yes. On page 4 under
3 item 11, I believe it talks about the -- it talks
4 about the application materials. Item 12 talks
5 about supplementary materials generally by other
6 people; neighbors, et cetera, businesses,
7 citizens. I take that item 11 ought to not only
8 address the time required to get to the -- to the
9 -- it also should include, I think, a sentence
10 that says that the time that the material should
11 get to the BZA for review. Our time is getting
12 shorter and shorter.

13 MS. O'LEARY: I agree. There isn't
14 a -- because I get the town manager -- the
15 meeting, and then I wait a week and I send an
16 email to John saying, When are we getting things?
17 And he says it only has to be a week ahead of
18 time.

19 MR. FARABEE: So I propose that
20 under 11 that we add a sentence that says the BZA
21 should receive these at least five days prior.

22 MR. ROSENFELD: I also have an
23 objection where we come to meetings and they hand
24 us new documents at the meeting that they say
25 just came that morning or that afternoon. I

1 wonder should we have a cutoff date?

2 MS. O'LEARY: Well, there is a
3 cutoff date but then --

4 MR. ROSENFELD: But it's not in
5 effect.

6 MS. O'LEARY: But it says in here,
7 because I know we had talked about this last time
8 that -- it said that it's -- whatever it is.
9 It's three or five days, but it's up to the
10 board.

11 MR. CASSIDY: We can consider it if
12 we want to.

13 MS. O'LEARY: We can consider it if
14 we want to. And so we take that under the
15 advisement of our planner, which is John.
16 Because I said that there's been so many times we
17 get a letter, like, the day of the meeting, and
18 we have no response to it. I mean, we just see
19 it the minute we walk in.

20 MR. CASSIDY: Yeah.

21 MS. O'LEARY: And even five days
22 prior, I mean, because that's what he had said to
23 me. We're allowed to have a week. I almost wish
24 we had a little more time because, you know, if
25 you have guests or if you're in the middle of a

1 couple of different things, if there's more than
2 one property to see, sometimes just to sit down
3 and review everything, I would prefer it earlier.
4 But I'm sure --

5 MR. CASSIDY: Let's make it five
6 days and ask the staff to try hard to get it
7 earlier. Especially, by the way, next month we
8 have four cases.

9 MS. O'LEARY: Okay. I'm not going
10 to be here next month.

11 MR. CASSIDY: Keep your afternoon
12 free.

13 MS. O'LEARY: I'm not here.

14 MR. ROSENFELD: You're not here?

15 MS. O'LEARY: I'm going to Alaska.

16 MR. CASSIDY: So for that, it would
17 be great if we could get the stuff a little bit
18 early. So on number 11, add that five days.

19 Anything else, Ben?

20 MR. FARABEE: No.

21 MR. CASSIDY: Anybody else got
22 anything else?

23 MR. ROSENFELD: No. I think we're
24 okay.

25 MR. CASSIDY: I think we've got

1 enough changes here that we want to take another
2 look at this before we call for a vote.

3 MS. O'LEARY: Yes, if you don't
4 mind.

5 MR. CASSIDY: Yeah. So let's do
6 that next -- we'll add that to next month's
7 agenda.

8 MR. ROSENFELD: Good. Now we have
9 five.

10 MR. CASSIDY: All right. Any other
11 business?

12 MS. O'LEARY: No, sir.

13 MR. CASSIDY: Okay. Okay. Folks,
14 we're adjourned. Thank you all very much.

15 (Deposition concluded at 1:46 p.m.)

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1 CERTIFICATE

2 I, Jessica Bolanos, Notary Public
3 in and for the State of South Carolina, do hereby
4 certify that the witnesses in the foregoing Board
5 of Zoning Appeals hearing were duly sworn by
6 Boone Aiken to testify to the truth, the whole
7 truth and nothing but the truth in the
8 within-entitled cause; that said hearing took
9 place in person at Kiawah Island Municipal
10 Center. The testimony of the witnesses, board
11 members, and all statements made at the time of
12 the meeting were recorded stenographically by me
13 and were thereafter transcribed by computer-aided
14 transcription. The foregoing is a full,
15 complete, and true record of the Board of Zoning
16 Appeals hearing.

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

20 Witness my hand, I have hereunto
21 affixed my official seal at Charleston,
22 Charleston County, on June 6, 2024.

23
24 Jessica Bolanos
25 My Commission expires
April 22, 2032

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134 (1)	6-29-70 (1)	aerial (1)	assume (1)
14 (3)	6-29820 (1)	affect (2)	assumed (1)
15 (1)	< 7 >	affirm (2)	attach (1)
15-foot (2)	70 (1)	affixed (1)	attached (1)
162 (4)	70-foot (2)	afternoon (4)	attend (2)
186 (2)	< 8 >	agenda (1)	attendance (1)
187 (3)	80 (6)	agent (1)	attending (1)
188 (1)	843-762-6294 (1)	ago (3)	attorney (1)
1991 (2)	< 9 >	agree (4)	authority (2)
1994 (1)	95 (1)	agreed (1)	authorization (1)
1999 (1)	97 (1)	ahead (2)	authorized (1)
< 2 >	99 (2)	AIKEN (6)	available (2)
20 (8)	< A >	Alaska (1)	avoid (1)
2003 (1)	Absolutely (1)	allow (2)	< B >
2024 (6)	acceptable (1)	allowed (2)	back (11)
2032 (1)	access (1)	amount (1)	backwards (1)
20th (1)	accessory (1)	angle (1)	Ballybunion (5)
22 (1)	accommodation (1)	angled (1)	based (3)
24-000005 (3)	accurate (3)	angles (1)	bedrooms (1)
25 (1)	acquired (1)	announcement (1)	BEHALF (1)
25-foot (1)	acres (1)	answer (2)	believe (4)
2651300032 (1)	Act (3)	answering (2)	believes (1)
29 (1)	action (1)	Anybody (1)	BEN (5)
29401 (1)	actions (4)	anymore (1)	bet (1)
29405 (1)	actual (2)	anyway (2)	big (2)
< 3 >	ADAMS (14)	apartment (1)	bit (4)
3 (8)	add (4)	apologize (1)	black (1)
30 (1)	added (1)	appeal (5)	black (1)
30.9 (1)	adding (1)	APPEALS (14)	BOARD (35)
31 (1)	addition (4)	applicant (11)	board's (1)
33 (1)	additional (5)	applicant's (11)	body (3)
3rd (1)	address (9)	application (6)	BOLANOS (3)
< 4 >		applications (3)	BOLEN (1)
		apply (3)	BOONE (6)
		approach (1)	boundaries (2)
		approval (4)	Box (1)
		approve (8)	BOYD (1)
		approved (3)	buffered (1)

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 built (6)
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 BZA (11)
 BZA24-000005 (1)
 BZA's (1)

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 Carolina (1)
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 cases (1)
 CASSIDY (60)
 cause (3)
 Center (2)
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 CERTIFICATE (1)
 certify (3)
 cetera (1)
 Chair (1)
 CHAIRMAN (4)
 chairs (2)
 change (3)
 changed (1)
 changes (1)
 Chapter (1)
 character (3)
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 Charleston's (1)
 chat (1)
 circuit (2)
 circumstances (2)
 citizens (1)
 City (1)
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 clarify (4)
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 CLARK (1)
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 clear (2)
 close (4)
 Code (2)
 come (4)

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 County (3)
 couple (2)
 Courier (1)
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 currently (2)
 cutoff (2)

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 Darryl (2)

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 Deposition (1)
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 Dewberry's (1)
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 extends (1)
 extraordinary (2)

extremely (1)

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factor (3)

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Failure (1)

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Family (3)

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FARABEE (19)

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Floor (2)

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Forte (2)

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four (2)

fourth (2)

FRANK (4)

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Freedom (2)

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fulfills (1)

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gentleman (1)

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Gloria (1)

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Good (7)

Government (1)

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granted (4)

granting (7)

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ground (1)

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Hall (1)

hand (4)

happy (1)

hard (1)

hardship (1)

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(1)

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hear (3)

heard (3)

hearing (6)

help (2)

hereunto (1)

history (1)

home (11)

homes (2)

honestly (1)

hopefully (1)

hour (1)

hours (1)

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houses (1)

huge (1)

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impact (2)

impacted (2)

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Information (9)

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inspection (1)

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interfered (1)

interpret (1)

investment (1)

ISLAND (12)

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It'd (1)

item (4)

IV (1)

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JAY (5)

Jay's (1)

Jeff (3)

JESSICA (3)

JOHN (11)

John's (1)

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June (1)

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KIAWAH (14)

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Land (4)

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Laplante (16)

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(1)

LARRY (3)

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LEWIS (5)

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Local (1)

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LOCATION (4)

logical (1)

long (3)

look (5)

looked (1)

looking (1)

looks (2)

lot (19)

luck (1)

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mailed (2)

majority (1)

man (1)

manager (1)

map (2)

married (1)	neighboring (2)	ought (1)	photos (1)
Marvin (1)	neighbors (5)	outdoor (2)	physically (3)
material (3)	neither (1)	outlined (1)	piece (5)
materials (2)	never (3)	overturn (1)	place (2)
matter (1)	new (3)	owner (5)	placed (1)
maximum (2)	news (1)	owners (3)	plan (5)
mean (6)	nice (1)	owner's (1)	planner (1)
media (1)	nine-point (1)	< P >	Planning (3)
Meeting (13)	nonconforming (2)	P.A (1)	plans (3)
meetings (5)	nonvoters (1)	p.m (2)	plant (1)
member (1)	normal (1)	package (1)	play (2)
MEMBERS (9)	normally (1)	page (2)	please (7)
membership (3)	north (2)	paperwork (2)	plot (1)
microphone (2)	northeast (1)	parcel (2)	PO (1)
middle (1)	Notary (1)	Pardon (1)	podium (1)
mind (1)	Nothing's (1)	part (2)	point (6)
minor (1)	notice (1)	partially (1)	points (1)
minute (1)	notification (1)	participants (1)	pool (32)
minutes (1)	notified (1)	participate (2)	pools (4)
missed (1)	Notwithstanding (1)	participating (1)	portion (1)
Mitch (3)	number (14)	particular (3)	position (1)
Mm-hmm (1)	< O >	parties (4)	positioned (2)
modest (1)	oak (2)	part-timers (1)	positioning (1)
moment (1)	oath (2)	party (1)	possible (2)
month (4)	object (1)	passed (1)	Post (1)
months (4)	objection (1)	PATREA (6)	posted (1)
month's (1)	obtain (1)	pedestrian (1)	precedent (1)
morning (1)	Obviously (1)	pending (1)	prefer (1)
motion (2)	occurs (1)	Pennell (2)	preliminary (1)
motions (1)	OCRM (5)	Pennell-Reed (2)	present (4)
move (4)	official (2)	Pennells (2)	presentation (1)
moved (5)	Oh (1)	people (4)	presented (2)
moving (2)	Okay (21)	percent (12)	presenting (1)
Multiple (1)	old (1)	period (1)	preserve (1)
Municipal (2)	O'LEARY (33)	permanent (1)	pretty (3)
myrtles (5)	once (2)	permanently (1)	prevailing (1)
< N >	one-week (1)	permit (2)	principal (1)
name (6)	opportunity (1)	permits (2)	printed (1)
named (1)	opposed (2)	permitted (3)	prior (5)
narrow (1)	options (2)	person (5)	probably (1)
natural (3)	orally (1)	personally (1)	procedure (1)
near (2)	orange (1)	persons (3)	procedures (1)
necessarily (4)	order (2)	pertaining (2)	Profitability (1)
necessary (1)	ordinance (10)	pertinent (2)	profitably (1)
need (5)	organizations (1)	pessimistic (1)	prohibit (1)
negatively (1)	orientation (1)	petition (1)	promote (1)
neighbor (1)	original (4)	Phil (2)	properties (5)
neighborhood (2)	originally (2)	PHILLIP (1)	property (33)
			proposal (1)

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 public (8)
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 Questions (8)
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 quorum (1)
 Quote (8)

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R1 (2)
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 really (5)
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 Remember (2)
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 report (2)
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 shrubs (1)
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 Street (1)
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 sworn (2)

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 Thank (6)
 Thanks (2)
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 thought (5)
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 today (3)
 today's (1)
 total (2)
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 Trust (3)
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 view (3)
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 western (1)
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 Witness (1)
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**WWW.CLARKBOL
 EN.COM** (1)

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y'all (1)
 yard (1)
 Yeah (13)
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ZONING (32)
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