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In Re:

TOWN OF HAVERSTRAW PLANNING BOARD MEETING

-----x

August 10, 2022  
7:30 p.m.

PLANNING BOARD MEETING held at One  
Rosman Road, Garnerville, New York, before a Notary  
Public of the State of New York.

DRAFT

SANDY SAUNDERS REPORTING  
254 South Main Street, Suite 216  
New City, New York 10956  
(845) 634-7561

Page 2

1	
2	APPEARANCES:
3	SAL CORALLO, CHAIRMAN
4	GLENN WIDMER
5	JOSEPH MICHALAK
6	ROBERT SAMBRATO
7	ANTHONY GIZZI
8	LESTER KAHN
9	CHRISTIE ADDONA, ESQ., ASSISTANT PLANNING BOARD ATTORNEY
10	MICHAEL D. KAUKER, PLANNING CONSULTANT
11	GLENN McCREEDY, TOWN ENGINEER
12	GEORGE T. BEHN, JR., BUILDING INSPECTOR
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Page 3

1	PROCEEDINGS
2	THE CHAIRMAN: Good evening, everyone.
3	Welcome to the Town of Haverstraw Planning Board,
4	August 10, 2022, 7:30 p.m.
5	Would everyone please stand for the
6	Pledge.
7	(Whereupon, the Pledge of Allegiance was
8	recited.)
9	THE CHAIRMAN: Would the clerk please
10	read the roll call.
11	THE SECRETARY: Sal Corallo?
12	CHAIRMAN CORALLO: Present.
13	THE SECRETARY: Glenn Widmer?
14	MR. WIDMER: Here.
15	THE SECRETARY: Joe Michalak?
16	MR. MICHALAK: Here.
17	THE SECRETARY: Robert Sambrato?
18	MR. SAMBRATO: Here.
19	THE SECRETARY: Anthony Gizzi?
20	MR. GIZZI: Here.
21	THE SECRETARY: Lester Khan?
22	MR. KHAN: Here.
23	THE CHAIRMAN: A quorum is present.
24	Would somebody move for the adoption of the minutes
25	of July 13, 2022.

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1	PROCEEDINGS
2	MR. GIZZI: Motion.
3	THE CHAIRMAN: Moved by Mr. Gizzi.
4	MR. WIDMER: Second.
5	THE CHAIRMAN: Seconded by Mr. Widmer.
6	All those in favor, signify by saying aye.
7	(Whereupon, all of the Board Members
8	responded "Aye.")
9	THE CHAIRMAN: So carried.
10	Item No. 1. K'hal Bnei Torah of Mount
11	Ivy, 62 Riverglen, Thiells, Section 25.12, Block
12	01, Lot 31. Site Plan Approval/SEQRA review.
13	Convert a single-family home into house of worship;
14	expand structure; construct a parking lot;
15	retaining wall.
16	The Public Hearing on this item was
17	closed at our meeting of July 13th. I have asked
18	our attorney to prepare a resolution, I'm going to
19	ask her to read it.
20	MS. ADDONA: Resolution of the Town of
21	Haverstraw Planning Board. Application of K'hal
22	Bnei Torah of Mount Ivy, 62 Riverglen Drive,
23	Thiells, New York, the property. Tax Lot No.
24	25.12, Block 01, Lot 31. R-25 Zoning District.
25	Whereas, the applicant, K'hal Bnei Torah

Page 5

1	PROCEEDINGS
2	of Mount Ivy, has submitted an application to the
3	town of Haverstraw Planning Board for site plan
4	approval and approval to conduct certain functions
5	in areas of the property identified as a
6	conservation easement, in order to convert and
7	expand an existing single-family home to a house of
8	worship, which use is permitted in the R-25 Zoning
9	District, and make other related improvements,
10	including a parking lot and retaining walls (the
11	"proposed project"); and
12	Whereas, the applicant submitted the
13	following plans in connection with this
14	application:
15	1. Site plan set, prepared by Brooker
16	Engineering, PLLC, last revised 1/21/2022.
17	Title sheet.
18	Existing conditions and slope analysis.
19	Site plan.
20	Grading and utility plan.
21	Erosion and sediment control plan.
22	Detail sheet 1 of 2.
23	Detail sheet 2 of 2.
24	2. Architectural plans, prepared by
25	Sketchy Plans, signed and sealed by Eric Knute

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1                                    PROCEEDINGS

2        Osborn, RA, New York State License No. 021585,

3        dated 2/23/2022. Sheets T-100.00, A-100.00,

4        A-101.00, A-102.00, A-200.00, A-201.00.

5                Whereas, the property is shown as Lot 11

6        on the Carlton Hills subdivision plat, which is a

7        62-lot subdivision encompassing approximately

8        43 acres, and Section 1 of the Carlton Hills

9        subdivision plat, of which the property is a part,

10        was filed with the Rockland County Clerk on May 27,

11        1983, as Map No. 5493; and

12                Whereas, there is a 100-foot-wide buffer

13        around the perimeter of the subdivision that is

14        identified on the plat as a "conservation

15        easement"; and

16                Whereas, as the property was a corner lot

17        of the Carlton Hills subdivision, the property is

18        burdened with this 100-foot buffer on both the west

19        and south sides of the property; and

20                Whereas, this area identified as

21        a "conservation easement" was never accepted by the

22        Town or recorded as a separate document with the

23        County Clerk or the New York State Department of

24        Environmental Conservation, and the DEC has advised

25        they have no record of, nor do they regulate, this

Page 8

1                                    PROCEEDINGS

2                Whereas, at its July 13, 2022 meeting,

3        the Town of Haverstraw Zoning Board of Appeals

4        unanimously adopted a resolution granting certain

5        area variances, including four area variances that

6        were related to existing conditions on the

7        property, that would exist regardless of whether

8        the property continued to be used for residential

9        purposes or the property is converted to a house of

10        worship, and three area variances related to the

11        proposed use of the property as a house of worship;

12        and

13                Whereas, the Town retained a traffic

14        engineering consultant, Stonefield Engineering &

15        Design, to review the proposed plan and use and to

16        suggest certain on-street traffic, parking and

17        signage mitigation measures so that on-street

18        parking occurs in a safe manner such that there is

19        sufficient room for passenger and emergency vehicle

20        circulation and access ("Stonefield plan"), which

21        plan is attached hereto and made a part hereof; and

22                Whereas, the Federal Religious Land Use

23        and Institutionalized Persons Act, ("RLUIPA") "is

24        the latest in long-running congressional efforts to

25        accord religious exercise heightened protection

Page 7

1                                    PROCEEDINGS

2        area on the applicant's property; and

3                Whereas, this area has been treated as a

4        local zoning restriction, like other setback and

5        bulk requirements, and the town code authorizes the

6        Planning Board to approve functions in areas

7        designated as a conservation easement; and

8                Whereas, the Planning Board held a

9        preliminary presentation on this application at its

10        August 11, 2021 meeting and opened a duly-noticed

11        Public Hearing at its November 10, 2021, meeting,

12        which Public Hearing was continued at its

13        January 12, 2022 meeting, February 9, 2022 meeting,

14        March 9, 2022 meeting, April 13, 2022 meeting,

15        May 11, 2022 meeting, June 8, 2022 meeting, and

16        July 13, 2022 meeting, and members of the public

17        having ample opportunity to attend and be heard,

18        the Public Hearing was closed on July 13, 2022; and

19                Whereas, the Planning Board served as

20        lead agency for a coordinated review pursuant to

21        the State Environmental Quality Review Act, and at

22        its June 8, 2022, meeting adopted a negative

23        declaration, thus ending the SEQRA process, which

24        negative declaration is attached hereto and made a

25        part hereof; and

Page 9

1                                    PROCEEDINGS

2        from government imposed burden, consistent with

3        Supreme Court precedent;" and

4                Whereas, RLUIPA "prohibits a governmental

5        entity from applying a land use regulation in a

6        manner that imposes a substantial burden on the

7        religious exercise of a person or institution," and

8        when the religious use "has no ready alternatives,

9        or where the alternatives require substantial

10        'delay, uncertainty, and expense,'" a denial of the

11        land use application could demonstrate a

12        substantial burden on religious exercise; and

13                Whereas, "federal courts have held zoning

14        ordinances or zoning decisions, that significantly

15        lessen the prospect of a religious institution

16        being able to use the property to further its

17        religious mission contravene RLUIPA;" and

18                Whereas, if this application was subject

19        to RLUIPA litigate, RLUIPA's "remedial purpose and

20        effect" to alleviate any substantial burden on the

21        applicant's religious exercise could result in

22        significant monetary penalties to the Town (which

23        would be the burden of the taxpayers) as well as a

24        more impactful project, and in this circumstance, a

25        federal court has held that "any purported 'burden'

Page 10

1                                    PROCEEDINGS

2    on the municipality and its residents is an

3    inevitable consequence of resolving RLUIPA

4    litigation, which congress anticipated when

5    drafting the statute and requiring its remedial

6    construction," and in holding such, the Court

7    rejected the allegations of "reverse

8    discrimination" under, or "weaponization" of,

9    RLUIPA; and

10                    Whereas, in addition, under longstanding

11    state law, educational and religious uses "have

12    enjoyed special treatment with respect to

13    residential zoning ordinances and have been

14    permitted to expand into neighborhoods where

15    nonconforming uses would otherwise not have been

16    allowed" and "greater flexibility is required in

17    evaluating an application for a religious use than

18    an application for another use, and every effort to

19    accommodate the religious use must be made;" and

20                    Whereas, local zoning also cannot require

21    a showing "that no ill effects will result from the

22    proposed use" as this "is improper because it fails

23    to recognize that educational and religious uses

24    ordinarily have inherited beneficial effects;" and

25                    Whereas, "the presumptive value of

Page 12

1                                    PROCEEDINGS

2    Planning Board and its consultants worked with the

3    applicant to minimize the intrusion into the

4    western conservation easement to the extent

5    possible, such that the only activity in the

6    western conservation easement will be the

7    installation of retaining walls to support the

8    construction of a parking lot needed to provide

9    on-site parking for the use. The applicant

10    proposed reducing the size of the parking lot from

11    the 27 parking spaces to 15 parking spaces, which

12    would have potentially eliminated the need to

13    encroach upon the western conservation easement.

14    However, the Board finds the impacts from reducing

15    the amount of on-site parking would be greater than

16    the minimal intrusion into the western conservation

17    easement area.

18                    2. This is the only parcel in the entire

19    Carlton Hills subdivision that is burdened with the

20    conservation easement area on two sides of its

21    property. None of the other lots in the

22    subdivision are burdened on the entire side of

23    their property with the conservation easement area.

24    While at the time of the subdivision, the southern

25    boundary (the side of the lot) also abutted

Page 11

1                                    PROCEEDINGS

2    religious facilities must be balanced against any

3    actual detriment to the public health, safety, or

4    welfare, bearing in mind that typical hazards of

5    traffic congestion, noise, diminution in property

6    values, and the like, are generally insufficient to

7    outweigh the public benefit of religious

8    institutions and the constitutional protections to

9    which such organizations are entitled," and "where

10    an irreconcilable conflict exists between the right

11    to erect a religious structure and the potential

12    hazards of traffic or diminution in value, the

13    latter must yield to the former;" and

14                    Now therefore,

15                    Be it resolved, in light of the

16    foregoing, and based upon the following findings,

17    the Planning Board authorizes the functions shown

18    on the site plan in the areas designated as being

19    in the "conservation easement":

20                    1. The western boundary of the property

21    (the rear of the lot) abuts public parkland. All

22    of the parcels on the west side of Riverglen Drive

23    in the Carlton Hills subdivision have the

24    conservation easement area running along the rear

25    of the property abutting the parkland. The

Page 13

1                                    PROCEEDINGS

2    undeveloped land, this land has since been

3    developed with a single-family home. Therefore,

4    the conservation easement area along the southern

5    boundary of the property no longer serves its

6    intended function. The rest of the neighborhood

7    has been developed and it is overly burdensome to

8    the property to have to abide by the conservation

9    easement area when the other properties in the

10    subdivision (and surrounding the subdivision) do

11    not have this restriction.

12                    In addition, the activities in the

13    southern conservation easement area is for the

14    construction of an on-site parking lot that is

15    required by the town code and is necessary to

16    support the use of the property without

17    overburdening the on-street parking. The applicant

18    is also proposing to install ample landscaping

19    around the parking lot, including in the

20    conservation easement area.

21                    3. The existing driveway on the property

22    already encroaches upon the southern conservation

23    easement area.

24                    4. To the extent other property owners

25    claimed they were not allowed to do work in the

Page 14

1                                    PROCEEDINGS

2        conservation easement area on their own property,

3        the code allows all property owners to seek

4        permission from the Planning Board for functions in

5        conservation easement areas.

6                5. To the extent other property owners

7        claimed they received violations from the town for

8        work done in the conservation easement areas on

9        their property, that is because they did not follow

10       the proper procedure in notifying the Town and

11       seeking the proper authorizations and/or approvals

12       before engaging in the work. In this instance, the

13       applicant has made an application to the Planning

14       Board and has gone through a lengthy and thorough

15       land use review process during which the Planning

16       Board and its staff/consultants reviewed various

17       iterations of the plans and considered the costs

18       and benefits of allowing these activities in the

19       conservation easement area.

20               Specifically, the applicant will have to

21       ensure there will be no storm water impacts from

22       the proposed project and will provide a zero-net

23       increase in stormwater runoff from the site through

24       the installation of a stormwater detention

25       facility.

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1                                    PROCEEDINGS

2        conditions must be met:

3                A. The applicant shall comply with all

4        rules, regulations, and requirements of any and all

5        agencies, entities, departments, boards, and

6        municipalities with jurisdiction over the proposed

7        project, and this approval is conditioned upon the

8        applicant receiving any and all approvals/permits

9        required by such agencies without material

10       deviation from the approved plans.

11               B. The applicant shall revise the bulk

12       table shown on the plans to be consistent with the

13       variances granted by the Zoning Board.

14               C. The applicant shall pay all

15       outstanding monies owed to the Town in connection

16       with the Planning Board and its consultants and

17       staff processing, reviewing, and preparing

18       documentation on this application.

19               D. No portion of any approval by the

20       Planning Board shall take effect until (1) all of

21       the above-stated conditions are met, (2) the

22       approved plans are signed by the Chairman of the

23       Planning Board, and (3) the approved plans signed

24       by the Chairman of the Planning Board are filed

25       with the Building Department.

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1                                    PROCEEDINGS

2                6. In this specific situation, the Board

3        finds that given (a) the deference and

4        accommodations that must be afforded to the

5        religious uses under state and federal law, (b) the

6        unique history and application of the conservation

7        easement area as it relates to this property, (c)

8        the thorough and lengthy land use review process

9        for this application, and (d) the fact that the

10       functions in the conservation easement area are

11       related to the parking lot that is necessary for

12       the religious use and to reduce potential impacts

13       to the neighborhood, it is warranted to authorize

14       the functions shown on the site plan in the

15       conservation easement areas.

16               And be it further resolved, based upon

17       the foregoing, the application for preliminary and

18       final site plan approval to construct an addition

19       to the existing structure and related improvements,

20       including a parking lot and retaining walls, to

21       convert the property to a house of worship are

22       granted with the follow be limitations and

23       conditions:

24               1. Prior to the signing of the approved

25       plans by the Planning Board Chairman, the following

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1                                    PROCEEDINGS

2                2. Prior to issuance of a building

3        permit, the applicant shall complete the following:

4                A. In accordance with Town Code 137-96(A)

5        and A173-10(D), the applicant shall provide a

6        performance bond in a form satisfactory to the

7        Planning Board attorney and in an amount

8        satisfactory to the Town Consulting Engineer based

9        upon the cost estimate of the site plan

10       improvements as shown on the approved plans to

11       ensure adequate completion of these improvements.

12               B. In accordance with Town Code

13       A173-16(B), the applicant shall provide escrow

14       established based upon a percentage of the town

15       consulting engineer's cost estimate to ensure the

16       site improvements can be inspected for compliance

17       with the approved plans.

18               C. The applicant shall obtain approval

19       from the Architectural Review Board for a design of

20       the structure that is consistent with the

21       residential character of the neighborhood, but that

22       does not make any other changes to the size,

23       layout, location, or configuration of the structure

24       or the property. If any such changes are made to

25       the plans, the applicant shall make an application

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PROCEEDINGS

1  
2 to the Planning Board for amended site plan  
3 approval.

4 3. Prior to obtaining a certificate of  
5 occupancy:

6 A. The applicant shall use all feasible  
7 efforts to implement the on-street mitigation  
8 measures shown on the Stonefield Plan and

9 B. The applicant shall ensure the  
10 structure is fully-sprinklered and shall  
11 incorporate any other fire protection measures  
12 deemed necessary by the Building Inspector and the  
13 Fire Department to ensure compliance with the  
14 Uniform Fire Prevention and Building Code.

15 4. Any proposed signage on the property  
16 or abutting the property in the Town's right of way  
17 shall comply with the town code and the applicant  
18 shall obtain any necessary approvals from the Town  
19 prior to installation.

20 5. As represented and consented to by  
21 the applicant: (a) the occupancy of the entire  
22 structure shall never exceed 107 people, (b) the  
23 sanctuary and meeting room shall never be occupied  
24 at the same time, and (c) no one shall reside on  
25 the property and there shall not be any overnight

Page 20

PROCEEDINGS

1  
2 9. All work shall be in strict  
3 compliance with the approved plans and all rules,  
4 regulations, and laws and ordinances governing the  
5 site plan and construction on the site. In event  
6 the Town Consulting Engineer, Superintendent of  
7 Highways, and Building Inspector agree that, as a  
8 result of conditions in the field, field changes  
9 are necessary to complete the work of the site  
10 plan, and if, in the opinion of the Town Consulting  
11 Engineer and Building Inspector, such field changes  
12 are minor and do not have any material negative  
13 impact on the overall design of the site plan,  
14 traffic circulation, and/or drainage of the site,  
15 including but not limited to roads, sewers, and  
16 drainage, then the Town Consulting Engineer and  
17 Building Inspector may, upon the filing of amended  
18 plans which reflect such field changes, allow such  
19 changes. In all other circumstances, any deviation  
20 from or change in the approved plans shall require  
21 application to this Board for amendment of this  
22 approval.

23 10. No work may be commenced on any  
24 portion of the site without first contacting the  
25 Building Inspector and Town Consulting Engineer to

Page 19

PROCEEDINGS

1  
2 occupancy of the property.

3 6. The applicant shall advise the  
4 congregants to use the parking lot to the extent  
5 practicable, abide by all traffic and parking laws  
6 and regulations, and utilize safe pedestrian  
7 practices.

8 7. The Planning Board attorney shall  
9 submit a memorandum to the Town Board on behalf of  
10 the Planning Board requesting that the Town Board  
11 consider whether it is feasible to install  
12 sidewalks in the area.

13 8. The granting of this application  
14 shall not be deemed to relieve the applicant of the  
15 need to obtain approvals or permits from any other  
16 board, agency, or officer as prescribed by law or  
17 ordinance with regard to the approved plan or  
18 construction or any other phase of the project.  
19 Further, the granting of this application shall not  
20 be deemed to relieve the applicant of the need to  
21 comply with any and all other local, state, and  
22 federal requirements, including but not limited to  
23 compliance with the New York State Uniform Code and  
24 any applicable regulations related to the proposed  
25 use, location, or construction.

Page 21

PROCEEDINGS

1  
2 ensure that all permits and approvals have been  
3 obtained and all permit fees paid and to establish  
4 an inspection schedule. Failure to comply with  
5 this provision shall result in the immediate  
6 revocation of all permits issued by the Town, along  
7 with the requirement to reapply (including the  
8 payment of application fees) for all such permits,  
9 the removal of all work performed, and restoration  
10 to its original condition of any portion of the  
11 site disturbed and such other additional civil and  
12 criminal penalties, as the courts may impose.

13 11. The property shall be inspected by  
14 the Building Inspector, the Town's Consultant  
15 Engineer, and any other consultants or  
16 professionals deemed necessary or appropriate by  
17 the Building Inspector to ensure that all  
18 construction, improvements, and modifications were  
19 done in accordance with all applicable federal,  
20 state, and local laws and regulations and all  
21 professional standards and guidelines prior to the  
22 field being operational.

23 12. This application is granted subject  
24 to the accuracy of the representations made by the  
25 applicant and its representatives to the Planning


Page 22

PROCEEDINGS

1 Board in its written submissions and during the  
 2 public hearing, and if any material representation,  
 3 whether or not it is included in this resolution,  
 4 is found to be inaccurate, at the discretion of the  
 5 Planning Board, the applicant shall be required to  
 6 make an application for an amended approval.  
 7  
 8 13. This resolution shall be of no force  
 9 or effect unless and until there is full compliance  
 10 with all of its requirements and conditions.  
 11 Dated as of August 10, 2022.  
 12 THE CHAIRMAN: Thank you. Would somebody  
 13 move on the resolution, please.  
 14 MR. SAMBRATO: I will move it.  
 15 THE CHAIRMAN: Moved by Mr. Sambrato.  
 16 MR. GIZZI: Second.  
 17 THE CHAIRMAN: Seconded by Mr. Gizzi.  
 18 All those in favor, signify by saying  
 19 aye.  
 20 MR. GIZZI: Aye.  
 21 THE CHAIRMAN: Aye. Opposed?  
 22 MR. WIDMER: Opposed.  
 23 MR. MICHALAK: Opposed.  
 24 MR. SAMBRATO: Opposed.  
 25 THE CHAIRMAN: We have three opposed, two

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C E R T I F I C A T I O N

1 Certified to be a true and accurate  
 2 transcript of the stenographic minutes taken  
 3 within.  
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 8 \_\_\_\_\_  
 9 Ashley Millan,  
 10 Senior Court Reporter  
 11  
 12 Dated: August 16, 2022  
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Page 23

PROCEEDINGS

1 ayes, so the application is turned down.  
 2  
 3 Next meeting will be on September 13th.  
 4 Motion to adjourn the meeting.  
 5 MR. MICHALAK: I make that motion.  
 6 THE CHAIRMAN: Moved by Mr. Michalak.  
 7 MR. WIDMER: Second.  
 8 THE CHAIRMAN: Second by Mr. Widmer.  
 9 All those in favor, signify by saying  
 10 aye.  
 11 (Whereupon, all of the Board Members  
 12 responded "Aye.")  
 13 THE CHAIRMAN: Meeting adjourned.  
 14 (Whereupon, the meeting was adjourned.)  
 15  
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 17  
 18 \* \* \* \* \*  
 19  
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 25

Page 25

1 Errata Sheet  
 2  
 3 NAME OF CASE: In Re: TOWN OF HAVERSTRAW PLANNING BOARD MEETING  
 4 DATE OF DEPOSITION: 08/10/2022  
 5 NAME OF WITNESS:  
 6 Reason Codes:  
 7 1. To clarify the record.  
 8 2. To conform to the facts.  
 9 3. To correct transcription errors.  
 10 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 11 From \_\_\_\_\_ to \_\_\_\_\_  
 12 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 13 From \_\_\_\_\_ to \_\_\_\_\_  
 14 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 15 From \_\_\_\_\_ to \_\_\_\_\_  
 16 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 17 From \_\_\_\_\_ to \_\_\_\_\_  
 18 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 19 From \_\_\_\_\_ to \_\_\_\_\_  
 20 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 21 From \_\_\_\_\_ to \_\_\_\_\_  
 22 Page \_\_\_\_ Line \_\_\_\_ Reason \_\_\_\_  
 23 From \_\_\_\_\_ to \_\_\_\_\_  
 24  
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