VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING AGENDA

January 15, 2014
5:00 p.m.

Meeting held at the Greenport Firehouse
236 Third Street, Greenport, New York 11944

APPEARANCES:
Douglas Moore - Chairman
David Corwin
Ellen Neff
Charles Benjamin

David Abatelli - Village Administrator
(Whereupon, the meeting was called to order at 5:00 p.m.)

CHAIRMAN MOORE: This is the regular meeting of the Greenport Zoning Board of Appeals. It's just about 5 p.m.

We have a Public Hearing tonight for a request for a variance. It is a Public Hearing for an application for an area variance for Jean Stratton, 424D Fourth Street, Greenport, New York, Suffolk County Tax Map 1001-6-6-16.

The applicant proposes to construct an addition to a nonconforming building.

Section 150-12A of the Village of Greenport Code requires a 30-foot rear yard setback in the R-2 District. The proposed second floor addition is 14.2 feet from the rear
property line, requiring a 15.8-foot rear yard variance.

Just to note that this was noticed in the Suffolk Times. The placard was also placed on the property. And the immediate adjoining properties were notified, and they are the Long Island Railroad Company; Karrie Robinson, 424 Fourth Street; Laueen Miller, 424 Fourth Street; Walter and Candace Tilford. It's on Oak Place, Bayville, New York, but one of the adjoining properties along the water, it looks like. And the previous owner of the subject property was notified as Ann Shengold in Greenport.

As is customary, we usually let the applicant or the agent for the applicant describe the project, and if you would like to do so.

MR. UELLENDahl: Okay. Good evening. My name is Frank Uellendahl, on behalf of Jean Stratton, the owner who bought this house a few months ago.
She loves this beautiful private street.
They all have the same house number, 424, and
the -- because of the view, the view of Shelter
Island, the view of the water, and also because
it's quiet. The train only comes a couple of
times a day.
The house itself is a ranch, a one-story
ranch building with three very small bedrooms,
facing east, and it's relatively small, and it's
not what the owner would like to maintain. She
is thinking about opening up the first floor
some more, and add her own master bedroom suite
upstairs on the second floor.

The plans show where the bedroom is going
to be. It has a sitting area. It opens up to
the Shelter Island views with a small terrace on
the second floor, which would be on top of the
extended living room.
The living room right now, there is an
enclosed porch, which would be turned into an
extended living room with a small or
six-foot-wide wood deck in front of that.

This is all within the buildable area, but
the reason why we're here tonight is that the
rear yard is supposed to be -- is 30 feet, and
the structure is sitting partially in the rear
yard. It's only 10 feet off the rear lot line,
and so are the two neighbors to the east and to
the west. They're actually even closer to the
fence.

And the design actually shows that we are
going to set back the second floor another four
feet on both sides, so it looks more like a
dormer type second floor addition.

And the reason we're here is basically to
ask for a variance, area variance, to allow
us -- to give us a variance for building in the
in the rear yard.

CHAIRMAN MOORE: We'll have the
opportunity to speak with the applicant's
representative during discussion, but are there
any questions right now from the Board?

(No Response)

CHAIRMAN MOORE: Okay. Thank you.

MR. UELLENDahl: Thank you.

CHAIRMAN MOORE: Any members of the public who would like to speak, come forward. None, it appears. And the -- oh, yes, okay.

MS. MILLER: My name is Laueen Miller, and I'm also at 424 Fourth street. We had a couple of questions, and I actually spoke with Frank yesterday to get some clarification. Just, I think, mostly he satisfied our concerns.

Just for your information, we were worried that the intention might be to make a two-family house out of the building, but we've been assured that that's not the case.

We were also -- the design that we got by mail differed a little bit, at least visually from our point of view, to what Frank explained to me yesterday in terms of what the intention for the remodeling is. Basically, we don't really see a problem with that.
We were also concerned, since we own the driveway, and the traffic, and we are planning to redo the driveway, which we have maintained over the last 40 years, to make sure that there wouldn't be an inordinate amount of traffic.

And that also during the construction, that given the limited parking available at that particular house, that every effort be made to have the workers park on Fourth Street and not on the driveway, which we have to maintain for the usage of everyone.

So we welcome the new neighbor into the area, and I think, hopefully, what is intended in terms of the modifications will enhance the property, and certainly having a better view of Shelter Island will be, I'm sure, of benefit to the new owner.

Thank you very much. And if you need any further information from me, I'm happy to give it. Thank you.

CHAIRMAN MOORE: Okay. Would there be
anybody else who would like to speak?

(No Response)

CHAIRMAN MOORE: If not, then, I would entertain a motion to close the Public Hearing.

MS. NEFF: So moved.

CHAIRMAN MOORE: And a second, please.

MR. BENJAMIN: Second.

CHAIRMAN MOORE: Any discussion on the matter?

(No Response)

CHAIRMAN MOORE: All in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

The Public Hearing is closed, and we can go into the regular part of the agenda.

I think I'd just like to start off by saying that this is very similar in principle, but larger in scale, than a similar variance that was issued -- or not issued, but it was
determined by the Zoning Board that an expansion of a house on Sandy Beach Road did not require a variance, because it actually did not increase the nonconformance of the house.

When we were looking at the requirements for setbacks, those are violated because the house already sits too close to the back property line, but this is a preexisting nonconforming condition.

And I'd just like to read the section of the code that we referenced last time, and that is that it describes a nonconforming as any building which does contain a use permitted in the district in which it is located, but does not conform to the district regulations for lot area, widths or depths, front, side, or rear yards and maximum height, lot coverage or minimum livable floor area per dwelling unit.

That said, there's the next section, which is Part A, is, "Nothing in this article shall be
deemed to prevent normal maintenance and repair, structural alteration, moving, reconstruction or enlargement of a nonconforming building, provided that such addition or such action does not increase the degree or create any new noncompliance with regards to the regulations."

Our interpretation last time was that because the construction was within the same footprint, that a variance was not required, and I'd like to hear any comments from the Board regarding that issue.

Because we've had a Public Hearing, we did have the opportunity to hear any concerns from neighbors about the building's increased height. It is not going over the 35-foot limit in height, and as Mr. Uellendahl said, the lot coverage, I believe, is still within the allowable amount.

MR. UELLENDAHL: Correct.

CHAIRMAN MOORE: It is not changing, even though the house is getting a bit larger to the
front, within the permitted building zone.

Any comments from the Board on that, that would feel that that's not appropriate, and that a variance would be required for this project?

MR. CORWIN: I don't agree with you. I think it is an increase in nonconforming use, just the same as I felt the way on the one on Sandy Beach.

CHAIRMAN MOORE: Other members of the Board, your feelings on this?

(No Response)

CHAIRMAN MOORE: I think, you know, we should try and be consistent. The principle is that -- the question is whether an increase in volume of the building within the same footprint does constitute an increase in nonconformance. Mr. Corwin has given the opinion that it does.

And how about the rest of the Board?

MS. NEFF: May I ask a question?

CHAIRMAN MOORE: Yes.
MS. NEFF: I was reading something. In the case on Sandy Beach, which I was present and accounted for, did we decide it didn't need a variance?

CHAIRMAN MOORE: Yes.

MS. NEFF: That's what I thought.

CHAIRMAN MOORE: We returned --

MS. NEFF: I wanted to make sure.

CHAIRMAN MOORE: We returned an opinion that --

MS. NEFF: Okay.

CHAIRMAN MOORE: And I don't know if I have the voting here, whether or not --

MS. NEFF: That's okay.

CHAIRMAN MOORE: Yes.

MS. NEFF: You don't have to go to the voting. I think --

CHAIRMAN MOORE: But it was supported, you know, with a positive motion and vote as to not require a variance.

MS. NEFF: Right. Okay. You don't --

CHAIRMAN MOORE: I don't have the
paperwork here.

MS. NEFF: That's not necessary. But I think that that is my recollection. I apologize for not listening carefully, and that I think that I also see this, since there -- the setbacks are not changing; that I don't -- I don't see it as an increase in the degree to which the building is nonconforming. It is nonconforming, but I don't see -- since we're not talking about any changes to the rear lot lines, I don't see how it is -- increases the nonconformance.

CHAIRMAN MOORE: Mr. Benjamin, would you care to comment?

MR. BENJAMIN: Well, Section A says, "Nothing in this article shall be deemed to prevent normal maintenance, repair, structural alteration, moving, reconstruction or enlargement of a nonconforming building." I think that's what it means, nothing shall be deemed to prevent enlargement of a nonconforming building.
CHAIRMAN MOORE: Okay. And one thing we have, that obviously there could be in some cases a hypothetical expansion of the building that could become very imposing on neighboring properties. And I think, in that case, that would be an issue of building permit as far as whether there are any other codes violated, and could be an option for reference to the Planning Board regarding structural alterations.

So that with everybody having given opinions, would it be the opinion of the Board that we have a motion to indicate that a variance is not required in this case, and that a building permit could be issued on the proposed project? Would that be an agreeable if I make that motion?

MR. CORWIN: I think there's two things I would ask --

CHAIRMAN MOORE: Yes.

MR. CORWIN: -- before you make that
motion. One is there's no elevation on the
survey or the submitted documents. It's close
to the water. My guess would be that it's out
of the flood zones, but I don't know that for a
fact, so I'm wondering if that's been
investigated.

And the other thing is the question of the
utilities. I think the applicant has to answer

somehow how they're going to handle the utility
poles on private property before we proceed,
because, as far as I understand, those are all
on private property and the Village won't pay
for new poles. So it may end up that a neighbor
has to pay for a new pole or the applicant has
to pay for a new pole and running new wires.

CHAIRMAN MOORE: Right. Now, when you
indicated elevations, you mean the property
elevation?

MR. CORWIN: It would be the flood
elevations, yes.

CHAIRMAN MOORE: The flood elevation, as
opposed to an elevation view of the property?

MR. CORWIN: That's correct.

CHAIRMAN MOORE: Yeah, correct. And that's something we perhaps, you know, could ask you about.

MR. UELLENDahl: I can look into this and we'll report back to you. I mean, are you talking about the grade elevation or the flood zone?

MR. CORWIN: The flood zone.

MR. UELLENDahl: Okay.

CHAIRMAN MOORE: And that would really only apply to the fact that you're making a modification on the front of the building. That wasn't the issue here at ground level.

MR. UELLENDahl: Yeah, it doesn't really change -- I mean, still, we're not changing the existing structure to less of --

MR. CORWIN: But you're making more intense of a use, so I think it's something that
needs to be considered.

CHAIRMAN MOORE: Well, we can check and see what the elevations are.

The other issue is this whole small neighborhood is private property, I understand. The Village -- is not maintained by the Village, but privately

MS. NEFF: Right.

CHAIRMAN MOORE: And it's my understanding that when utility changes are made, that it is a cost to the property owners.

MR. UELLENDAHL: Yes. It has been discussed with the owner. And we will bring this up again before we apply for a building permit, so she understand what's involved. And the discussion, for example, with Karrie Robinson, who is the owner to the west, has already taken place.

CHAIRMAN MOORE: Yeah, and it's interesting. Many times, if an improvement has to occur, I understand, and I can't speak for
the Village, but sometimes cost has been negotiated because it may actually improve the electric service. And I notice that the main factor that Mr. Corwin pointed out on the site visit was that the pole in the neighbor's yard very likely is affected by the movement of the wires, and that pole would either have to be moved or another pole added to extend the electric service.

MR. UELLENDahl: Correct. And there is also the option to possibly bring the service down one pole and bring it to the other pole underground, so we don't have the issue of dangling wires close to the second floor addition.

CHAIRMAN MOORE: Yes. So, anyway, I don't --

MR. UELLENDahl: So there is a cost involved, which the owner is aware of.

CHAIRMAN MOORE: Right. We might wish to, in documenting a decision, should we make that,
that it's not necessary for a variance, that it
be referred back to the Building Department that
the proper, you know, reimbursement, or
whatever, would be necessary to -- in other
words, responsibility for the utilities would be
on the property being improved.

MR. UELLENDahl: Yes, we will take this up
with the Building Department.

CHAIRMAN MOORE: Okay. So, with those two
issues in mind, I would then make a motion that
we would like the information regarding the
flood zone, that it be supplied to the Building
Department, and that the utilities, necessary
cost of utilities be discussed, but that the
Zoning Board of Appeals has interpreted that a
variance is not required for this project. And
I would make that motion and ask for a second.

MS. NEFF: Second.

CHAIRMAN MOORE: And any other discussion?

(No Response)

CHAIRMAN MOORE: All in favor?

MR. BENJAMIN: Aye.
Mr. Corwin, opposed?

MR. CORWIN: Aye.

CHAIRMAN MOORE: So we have three in favor and one opposed. I'm sorry, I forget to ask both sides of the question.

So we'll prepare a document back to the Building Department, that it is our interpretation that a variance is not required for this project, but there will be some issues to discuss with the Building Department.

MR. UELLENDAL: Thank you very much.

CHAIRMAN MOORE: Okay. Thank you.

So the next item is Item #2, and that is a motion to accept an application for an area variance, schedule a site visit, and schedule a Public Hearing for Steven Sommer, 423 New Rochelle Road, Bronxville, New York, 10708, for a property located at 216 North Street, Greenport, New York, Suffolk County Tax Map
The owner proposes to construct a new two-family dwelling on a nonconforming lot. Section 150-12A of the Village of Greenport Code requires a 15 side yard 15-foot side yard setback. The proposed side yard setback for the new construction is 11.3 feet, requiring a 3.7 foot side yard area variance. The same section of the Village of Greenport Code requires a 25-foot combined side yard setback. The proposed combined side yard setback for the new construction is 21.3 feet, requiring a 3.7 combined side yard area variance. I make that motion to accept the application. It does look in order. May I have a second, please?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?
MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

CHAIRMAN MOORE: Charlie, did you say aye?

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Okay. So that application is accepted.

Item #3 is a motion --

MS. NEFF: Can I ask you a question about this?

CHAIRMAN MOORE: Yes.

MR. NEFF: Are the requirements any different for the setbacks if it's a two -- remember, this is a -- really, the first thing it is is to request that a two-family dwelling be constructed on a lot that, if I can read, it says it's 45-by-117, the lot itself.

CHAIRMAN MOORE: The lot is a substandard lot, I believe.

MS. NEFF: Yes.

CHAIRMAN MOORE: Yes.
MS. NEFF: Yes. Is that -- and the --

MR. CORWIN: Less than 279 square feet.

CHAIRMAN MOORE: The lot.

MR. CORWIN: And the standard lot would be
at this point in time 7500 square feet.

CHAIRMAN MOORE: Seventy-five hundred square feet.

MS. NEFF: So it's less than half as much.

MR. BENJAMIN: So it needs two -- three variances.

CHAIRMAN MOORE: Well, the variances for the footprint of the house, whether one-family or two-family, needs a variance --

MS. NEFF: Are the same.

CHAIRMAN MOORE: -- for the side yard. I believe the front yard setback, even though it's not as deep as the code normally requires, is calculated based on the adjoining properties and is permitted.

Now, the lot coverage, I did not see the
figures on lot coverage. That may be another issue. I'm not sure whether that exceeds the allowable amount, but we can research that, and we'll have to check and see if that would be a required variance as well. Did anyone --

MS. NEFF: I would think that that particularly -- all of that needs to be looked at before we say, as is, these are the variances we are reviewing.

CHAIRMAN MOORE: Okay. So perhaps, Mr. Abatelli, could we find out by next month about the lot coverage, as far as the construction, because that may just exceed --

MR. ABATELLI: Yes. I don't -- I can't swear to it, but I remember discussing that with Eileen back a ways, you know, early, and I think -- I'm pretty sure it was okay. So I don't know if we want to completely put this off, or if we just want to condition it going forward on if there's a problem with the lot coverage.

MR. SOMMER: So I'm the owner of the
property.

CHAIRMAN MOORE: Yes, okay.

MR. SOMMER: If I may.

CHAIRMAN MOORE: Yes. We're not taking public testimony, but if you have any information that you could clarify that --

MR. CORWIN: I don't think we should be taking information. I think --

CHAIRMAN MOORE: Okay. Maybe we need to find out by next month.

MR. SOMMER: I completely understand that.

MR. CORWIN: Just the time for a Public Hearing is the only thing we need to do.

CHAIRMAN MOORE: Okay. So we can -- is it the opinion of the Board that we should or shouldn't accept the application, then, because we're going to schedule a Public Hearing?

MR. CORWIN: I think we should, yes.

CHAIRMAN MOORE: Yeah. I think we can clear that up. And, if necessary, the Building Inspector could repost the information, and we can modify the application, should there be an additional variance requested.
So, in that case, we will plan on setting up a Public Hearing for the next month, which will be -- February 19th is the normal meeting, and that would be at 5 p.m. And we would schedule a site visit on the property at, say, 4:20 for that property? Would that be acceptable?

MS. NEFF: Uh-huh.

CHAIRMAN MOORE: And we have accepted the application for consideration.

MR. CORWIN: I think, logistics-wise, if we went to lower Main Street first --

CHAIRMAN MOORE: Okay.

MR. CORWIN: -- and then to North Street second --

CHAIRMAN MOORE: Okay. So let's --

MS. NEFF: We're in the neighborhood, right.

MR. CORWIN: -- we would be a little more efficient. So why don't we do it that way?
CHAIRMAN MOORE: Yes, I agree, that's a good idea. So we'll make it 4:40 at North Street. We usually take about 20 minutes for each site visit.

Okay. So I think that business is completed. We'll move on to Item #4. No, I'm sorry, Item #3. Motion to accept an application for an area variance, schedule a site visit and schedule a Public Hearing for Mark LaMaina, 119 Main Street, Greenport, New York, Suffolk County Tax Map 1001-5-4-34.

The Applicant proposes to construct a restaurant sign, which is directly illuminated, and flashing sign.

Section 150-15G(2) of the Village Code prohibits directly illuminated and flashing signs.

This is a sign which is already in existence, so this is an "I'm sorry, may I have a variance" application.

Mr. LaMaina, at the restaurant on South
Main Street, has installed this sign, and we
will take a look at it next month. And, again,
we would schedule that site visit for 4:20.
And so I would make that motion to accept
this application. It does look in order.
There's a fair amount of documentation supplied.
May I have a second, please?
MR. CORWIN: Second.
CHAIRMAN MOORE: And all in favor?
MR. BENJAMIN: Aye.
MR. CORWIN: Aye.

MS. NEFF: Aye.
CHAIRMAN MOORE: Aye.
So that's accepted. And we will --
MR. CORWIN: Just one note.
CHAIRMAN MOORE: Yes.
MR. CORWIN: The sign should be turned on
when we visit.
MS. NEFF: So we're -- but --
CHAIRMAN MOORE: Yes, yes. It is turned
on currently, so I expect it probably will be
when we visit.

MS. NEFF: But, by the time we --

MR. CORWIN: It's not on now during the
day.

MS. NEFF: Well, it might be now because
it's dark.

CHAIRMAN MOORE: Well, I drove by it this
afternoon and it was on.

MR. CORWIN: Okay.

MS. NEFF: Okay.

CHAIRMAN MOORE: So I think that we will
ask that it be turned on, though, so that we can
see it when we're there.

MS. NEFF: Okay, good.

CHAIRMAN MOORE: Okay. So that will be at

4:20 next month.

And then Item #4 is motion to accept the
ZBA minutes for December 18th, 2013. So moved.

Do I have a second?

MS. NEFF: Second.
CHAIRMAN MOORE: All in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye. Motion carries.

Motion to approve the ZBA minutes for November 20th, 2013. So moved. May I have a second, please?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

CHAIRMAN MOORE: Aye.

MR. BENJAMIN: Aye.

MS. NEFF: Excuse me, aye.

CHAIRMAN MOORE: Okay. Motion carries.

And now the motion is to schedule the next regular ZBA meeting for February 19th, 2014. That would be at 5 p.m. So moved. Second, please.

MS. NEFF: Second.
CHAIRMAN MOORE: All in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye. Motion carries.

And then -- yes?

MR. ABATELLI: I just want to -- I was reading the plan before, so it does look like the light coverage, according to the plan there, is like 29. something, like one something percent.

CHAIRMAN MOORE: Okay.

MR. ABATELLI: And I'm pretty sure what's required is 30.

CHAIRMAN MOORE: Thirty.

MR. ABATELLI: It might even be 35.

CHAIRMAN MOORE: Yes. If you would check on that so we can modify the application before the next meeting.

MR. ABATELLI: So, if it is under, then we we'll just still go forward with the Public Hearing, but in the notice, we'll include that's what it is.
CHAIRMAN MOORE: Yeah, yeah. It will have to be -- the application would have to be modified and the public notice would have to be appropriate as well.

MS. NEFF: If I just may inquire.

CHAIRMAN MOORE: Yes.

MS. NEFF: Are the lot -- if there was a one-family house, would there be a different set of numbers for --

MR. ABATELLI: There might be. It might be 30 and 35. It might be 35 for two-family, 30 for one.

MS. NEFF: That's what I --

MR. ABATELLI: But I'm not sure, because I know it was changed, but I'm not sure if I'm remembering the old one or the new one.

MS. NEFF: But we are talking about a lot 45-by-117, I think, and we're talking about they need a variance to build a one-family house, much less a two-family house.

MR. ABATELLI: It's possible.
MS. NEFF: I think it has to be very carefully looked at what the setbacks and area issues are for each scenario.

CHAIRMAN MOORE: Yes.

MS. NEFF: Even though the applicant is asking for a two-family.

CHAIRMAN MOORE: Yes. Yeah, 30% for one family --

MS. NEFF: That's what I thought.

CHAIRMAN MOORE: -- 35% for two-family. So it actually gives additional leeway. But the setbacks are all exactly the same. And, of course, the parking requirement would be for three vehicles for this application.

MS. NEFF: Is there anything about the area of the parking area? In other words, what are we construing as the width of a car or the width of a -- you know, those kinds of things?

CHAIRMAN MOORE: Those are standard.

MS. NEFF: Well, okay.
CHAIRMAN MOORE: I don't know if they're
code, but they're --

MR. ABATELLI: They're in the code as
10-by-20.

MS. NEFF: For each car?

MR. ABATELLI: Yes, in a different part of
the code.

MS. NEFF: Okay. Again, I think all those
things need to be looked at.

CHAIRMAN MOORE: Okay. So, with that
discussed, Item #7 is motion to adjourn. So

moved. May I have a second?

MR. CORWIN: Second.

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. BENJAMIN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye. The meeting is
adjourned.

(Whereupon, the meeting was adjourned at 5:30
CERTIFICATION

STATE OF NEW YORK

COUNTY OF SUFFOLK
I, LUCIA BRAATEN, a Court Reporter and Notary Public for and within the State of New York, do hereby certify:

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on December 18, 2013.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of December, 2013.

___________________________
Lucia Braaten