VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK
----------------------------------------x
ZONING BOARD OF APPEALS
REGULAR MEETING
----------------------------------------x

Third Street Firehouse
Greenport, New York
October 21, 2015
5:00 P.M.

B E F O R E:

ELLEN NEFF - MEMBER - CHAIRPERSON
DAVID CORWIN - MEMBER
JOHN SALADINO - MEMBER
DINNI GORDON - MEMBER
DOUG MOORE - CHAIRMAN (Excused)

EILEEN WINGATE - VILLAGE BUILDING INSPECTOR
JOSEPH PROKOP - VILLAGE ATTORNEY
CHAIRPERSON NEFF: Okay. I would like to open the meeting of the Zoning Board of Appeals and with the fellow Board members. David Corwin, John Saladino, Dinni Moore --

MEMBER GORDON: Doug Moore is not here. Dinni Gordon is.

CHAIRPERSON NEFF: Okay. Doug Moore is not here and I am Ellen Neff and I am substituting. So cut me some slack. It’s our regular meeting. Our first is a public hearing and we're continuing one that has been opened from our last meeting concerning the Holy Trinity Church appeal for a use variance at the house at 718 Main Street. And the applicant proposes to construct a second residential unit in an existing one family house in the R-1 District. And I do I have to read --

MEMBER GORDON: Yes.

CHAIRPERSON NEFF: Section 150-7A(1) does not permit any building to be used , in whole or in
part, for any use except one family
detached building. Not to exceed one
dwelling per lot. The application
requires a coordinated review for the
purposes of SEQRA, and is classified
as a Type I action due to its
location in the Historic District.
This action has been publicly noticed
and comments regarding this
application must be received within
30 days. The public hearing for the
use variance will remain open pending
resolution of the SEQRA review. The
30 day notice will October 18th and
this is the 21st. We have received
several responses. I will tell you
what they are. The Historic
Preservation Commission took no
action but if we approve this use
variance, we will refer the matter
back to them. The Suffolk Count
Department of Planning had no
interest in the matter and considers
it a local jurisdiction. The
Planning Board had no comments. Have
October 21, 2015

I covered them all? The Board of Trustees?

MR. PROKOP: I don't know.

CHAIRPERSON NEFF: None received. So we have completed the matter. That completes that part.

And I don't mind being interrupted by any of these people at the table if I am going off in a direction too soon.

But I think if there is anybody to speak on behalf of this application at this time, they can take the podium.

MS. WELLS: Yes. My name is Lydia Wells. I am one of the wardens at Trinity Church. We have submitted everything that we needed to submit and site visits. As a church, we're moving on. We do have a pastor coming in January, who will be part-time. He lives in the community. He will be joining us again. So we're looking forward to moving on and we hope that this will help us do that.
CHAIRPERSON NEFF: I have one question. The person that you will now be -- the part-time minister. When you say living in the community --

MS. WELLS: He has a house in the community.

CHAIRPERSON NEFF: Okay. This renovation and you gave us many details about the financial situation with the parish and it’s part with the Diocese. It’s for the long range use of the building as two apartments. So that it could be used by a member that is serving the church in some capacity or not. Is that correct?

MS. WELLS: That’s correct.

Any questions?

CHAIRPERSON NEFF: Any questions from the Board? Comments from the --

MR. CLARKE: Hi, I am Peter Clarke. I live on Sixteenth Street. I was at the August meeting where I
made a few preliminary comments about
the application. And subsequent to
that, I believe the Board not only
requested financial information but a
survey of the number of grandfathered
two-family properties in our
neighborhood versus the
single-families. Mr. Corwin and
Mr. Saladino are the ones who
requested it and I thought it was a
good idea. So --

CHAIRPERSON NEFF: Excuse me
for one moment.

MR. CLARKE: Yes.

CHAIRPERSON NEFF: Have you
seen -- there was such an analysis
done. Have you seen it?

MR. CLARKE: No.

CHAIRPERSON NEFF: Would you
like to look at it?

MR. CLARKE: Sure.

CHAIRPERSON NEFF: I should
have mentioned it. You can take it
back over there and bring it back to
me, please.
MR. CLARKE: Okay. Great.

So as I can see here, in addition to the commercial properties that were mentioned in the immediate vicinity, there are another two families that I am not able to index it at a glance. It’s substantial. So based on that and in keeping the character of the neighborhood, I would request again that the Board consider denying the variance in an endeavor to keep that area of the neighborhood a little less intensively developed. It’s fairly intensively developed in use already as in evidence surrounding by the other two-families and the amount of commercial activity in the area. We're very sensitive to the needs of the church and certainly do not want to send any other message to them, other than we want to respect the zoning in the area. Certainly if the needed to financially, they could sell it as a single-family house and take those proceeds to help them or
to rent it as a single family house
on which it would also not require a
variance and help them financially.
I understand the minister housing
issues that they brought before the
Board but I believe they have other
recourses to resolve their financial
challenges, which I respect without
continuing to change the zoning in
this immediate neighborhood of
Greenport. I thank you for your
time.

CHAIRPERSON NEFF: Thank
you.

MS. SHAPIRO: Hi. I am Linda
Shapiro. I do live right across the
street from the church. I also spoke
last time at the first meeting. I
agree basically everything that Peter
has said. The neighborhood is quite
busy because of the hospital and the
medical center. We have a B&B across
the street and a B&B down the block.
And it's right on the corner. Like
last time, I said I don't have a
problem with it being a single
family. I understand the church has
financial difficulties. At the
beginning they wanted to have the
minister and the person who takes
care of the ground live there. Those
people have separate residences
within the Town. They don't need an
apartment anymore. There are many
houses for sale. That house would
probably sell for a lot of money,
if they're really in dire straights
for money. So I don't see any
reason to change it into a two-family
home.

CHAIRPERSON NEFF: Thank you.
MS. SHAPIRO: Thank you.
CHAIRPERSON NEFF: Yes.
MR. SWISKEY: William
Swiskey, 184 Fifth Street. I mean,
this is a big house. It's a big
piece of property and they're
dividing it into two apartments is
not going to hurt anything. I know
the neighborhood. There is quite a
few of two-family houses. I mean, and we're losing churches like crazy. I mean, this church is trying to survive. So you can at least give the variance to the church and have a two-family and then you can put a corticale on it, if they sell it, it can revert to one family. But basically you're stepping on the churches throat here and it doesn't make any sense to me. I live in a supposedly one of the better neighborhoods. We got lots of two families. It doesn't hurt anybody. I don't understand it. I am a native of Greenport all my life. And now we're trying to exclude.

CHAIRPERSON NEFF:

Mr. Swiskey, I would just like to add to the stepping on the throat of the churches. I have been here a long time. Not as long as you have. The number of churches that we're seeing on the North Fork, in this community as well, that disappear have already
thrown in the towel. The sign is up. The purchase is made and how much they mean to the community for meetings, events are noted.

MR. SWISKEY: Thank you.

MS. MILLER: My name is Loraine Miller. I am also a warden at Holy Trinity Church. People have made remarks about us selling the property. It’s not ours to sell. It belongs to the Diocese. If it sold, it goes to the Diocese and not to us. So we can maintain it but we cannot sell it.

MS. SHAPIRO: Maybe I can make sense to it, if you are getting rent for two family home, where does that Money go to? If it’s going to Diocese then how is it helping the church?

CHAIRPERSON NEFF: Please use the podium.

MEMBER CORWIN: One person at a time.

MS. SHAPIRO: The Diocese
supports the churches. That is where
they get their money from. If they
can't afford to keep the church than
they should sell the church and talk
to the Diocese about whatever
they're lacking. It's a very busy
area. They practice for plays.
There is a lot going on there
constantly. So I don't see it
becoming a two-family house. I think
it's a very busy property as it is.
Thank you.

MR. POLLEO: Fred Polleo. I
am a member of Holy Trinity Church.
The way that the guidelines are set up
is that any assets of the churches are
held in the trust for the Diocese.
Of there is a piece of property and
there is an asset that is -- it’s held
in trust for the Diocese as a whole.
The Diocese does not support the
church. The church is supposed to
support the Diocese. We have not made
contributions for a while. So if the
property were to be sold, it would
have to be approved by the Diocese.

CHAIRPERSON NEFF: Thank you, sir. I should mention and it was read at previous hearing, Arthur Task’s letter objecting to -- he talked about understaffing the financial burden but felt that it -- opposed to being two dwelling units at the rectory, partly fearing a flood of potential applications. And consider the example of spot zoning. I wanted to say, that in past decisions, we have added a rider and maybe this time, this is from the last time we did this was in July 2013, when we approved two units in the rectory, which incidentally all on one property. The entrance for off street parking of which there is ample for the residents of that house is on the side street and there is ample space there. But we are findings and determinations added, the variance is terminated and a second dwelling must be removed if
the parcel of property is ever separated from the church property and sold for private use. And the use of the premises would revert to the compliance of the requirements with the Village Zoning Code, which of course would make it a one family house. So we made that part of the original use variance that we gave to the church. And to again clarify, it was for the church to use one unit for an employee and another unit at a market rental. To help defray the expenses of ownership and renovation of that house. So are there any other questions from the Board?

Yes?

MEMBER SALADINO: I have a question for one of wardens. A financial question. I am reading in your statement that the second rental unit would annually generate revenues of $12,000.00. And with the one rental scenario keeping it as a one family house it would -- there would
be none.

MS. WELLS: Yes. That would pay off -- that would cover the renovations.

MEMBER SALADINO: I understand that. I am also looking at your financial records here you would -- it looks like according to this that the church would absorb heat for the house and a single family cost scenario, it would absorb the cost of the electric for the house. And you also project almost a $5900.00 increase in taxes if it were progressed as a single family dwelling.

CHAIRPERSON NEFF: You mean as a two family dwelling?

MEMBER SALADINO: As a single family dwelling.

CHAIRPERSON NEFF: Okay.

MEMBER SALADINO: So my question would be just to cost of heat and lights is $5200.00. I don't know why, as a landlord myself at
times, I didn't pay that. I can understand as a two rental unit but as a single rental unit, I don't understand why the church would be responsible for that and not the tenant. To heat and provide electricity for their rental unit. I am curious --

MS. WELLS: I am going to ask Fred to come up. He knows. He helped with the paperwork.

MEMBER SALADINO: I am also curious as to where you came to the figure of an additional $5800.00 on property tax. And one last thing, if you do those numbers, I mean, it's not $12,000.00. It's $7,000.00 in revenue and if you raise the rent to $2400.00. It's $8,000.00. Now it's only a $4,000.00 difference. You know, $4,000.00 is hard to justify.

MR. POLLEO: Basically what we had done with respect to the property taxes is, we had taken a random sample of homes. We didn't draw at the
lowest value ones. And that is based upon a random sample of ten properties in the surrounding area. We just took an average. That’s basically how we had come out with the tax lot. With respect to the apportionment and with respect to what the estimated rental cost was, we had gone through with a real estate agent prior to even doing the proposal. It’s a very large house and according to the real estate agent, you get to a certain point on a large house where more limited group of individuals -- unless you're going to be moving in a large family or something of that sort. So this was a number that was informed to us by the real estate agent. So we used that. With respect to the utilities, part of the reason we didn't break out the utilities is heat is also shared with the churches. It’s a common propane tank. So heat is going to be shared. It heats the churches hall as well as a portion of the churches property.
So what I had done, is I assumed it would be included as well, it’s on a separate meter. We could break it out. It would change it to a slight benefit as opposed to apportionment. It’s just more or less for a short-hand of the analysis. So we would be covering utilities.

MEMBER SALADINO: But you do understand --

MR. POLLEO: Yes, we do.

MEMBER SALADINO: You’re asking for the variance because of the perceived financial hardship. And now, if you can come up with a few extra five, six or seven thousand dollars to reduce -- to come down from that $12,000.00 --

MR. POLLEO: You know, as much as we tried to be complete as possible in the analysis, we did not factor in a group of expenses, which would be associated with the property. Insurance requirements. So on and so forth. When we did the analysis, we
tried to -- as much as possible, to
compress enough into just two pages.
So we didn't throw in a lot of lines
to make it look like a tax form or
anything of that sort. So we used
short-hand with respect to the utility
cost, but part of the numbers were
when we spoke with the real estate
agent. He had said if you include the
utilities on the two unit, you could
use the same assumption on the one as
well.

MEMBER SALADINO: I am sure
-- thank you for that. Even for
someone like me who has no actuary
background. Just the idea that two
units as far as everything involved
has to be more costly then as a
single unit when it comes to whatever
you're doing, construction,
insurance.

MR. POLLEO: Well, we had done
that as well. We did construction
costs. We assume -- obviously we
wouldn't be putting in a second
kitchen. So we reduced both the
contingency and the construction
costs associated with not needing to
put in a kitchen upstairs. So we
tried to be as accurate as possible.
That is part of the reason the total
costs of $150 on renovations for the
two unit, down to $138.

CHAIRPERSON NEFF: Can I just
make one point. One thing from your
current application that you gained
that you don't have in the first use
variance is flexibility. The
flexibility that at some time, it can
be a church employee. And it's not
the expenses that is tied into the
renovation. It's ongoing year after
year after year. And I think --
thank you for all the numbers that
you presented but when you think of
it as ongoing, I can see how it gives
you greater flexibility.

MR. POLLEO: It's not just the
flexibility for the church itself, the
Dioceses has a number of programs.
That is part of the reason. And they had recently hired a priest to cover the east-end, it could be -- that the Diocese would want to use one of the units. So it’s not just the church. It’s the church as a whole.

CHAIRPERSON NEFF: I understand. Thank you.

MR. SWISKEY: Actually, I don’t know who did this financial analysis but just looking at it from an outsider, you have $150,000. Your mortgage basically over 30 years is going to cost you about $1200.00 a month. You're going to have two units, which you could probably rent for $1500.00 a piece. So the church is going to make out. The property -- you know, there will be a financial benefit to church. You would have to be the worst businessman in the world not to see it.

CHAIRPERSON NEFF: Okay. I believe at this point it would be
appropriate to make a motion to close
the public hearing.

_MEMBER GORDON: So moved.

CHAIRPERSON NEFF: I was
going to ask --

_MR. PROKOP: I have a couple
of comments. They don't have to be
during the public hearing. They
could be after.

CHAIRPERSON NEFF: Okay. We
could close the public hearing. If
someone would make a motion?

_MEMBER GORDON: So moved.

CHAIRPERSON NEFF: Second?

_MEMBER SALADINO: I second.

CHAIRPERSON NEFF: Any
discussion?

_MEMBER GORDON: I would like
to add something. I understand the
arguments on both sides and I am very
sympathetic with the church and
sympathetic with the neighbors, but
one sort of outside issue which may
seem to people very small is that
Greenport is not nearly as bad as
many places but Long Island as a whole has a real housing crisis particularly. And Greenport still retains a lot of rental units as it should. And I -- you know, the prospect of increasing one rental unit which will also provide a substantial benefit to the church seems to me, at least as important as for that benefit as the detriment to having another household across the street, which doesn't seem to me to be a very big detriment. So I am inclined we should consider that as we're looking at this.

CHAIRPERSON NEFF: Okay. So all those in favor of closing the public hearing?

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER CORWIN: Aye.

CHAIRPERSON NEFF: Aye.

Motion carries.

MEMBER GORDON: My comment was intended to be part of the
discussion that followed the closing
of the hearing. I'm sorry.

CHAIRPERSON NEFF: That's
because the substitute chair seems to
have trouble distinguishing between
the hearing part and the meeting part
and I will work harder at that.

Second, there is a public
hearing -- open a public hearing
No. 2 for Marta Thomas, 211 Bridge
Street, Section 1001-2-2-10.1. The
applicant seeks a building permit for
a new detached accessory building for
a structure which has already been
partially constructed. The property
is located within a R1 District. The
accessory building is located 2 feet
from the south property line
requiring an area variance of 3 feet
for a rear yard setback. Section
150-13A1B. The code requires a 5 yard
setback from the rear or side yard
lot lines. Any presentation by the
owner?

MEMBER CORWIN: Correction?
CHAIRPERSON NEFF: Yes.

MEMBER CORWIN: You said the applicant seeks a building permit for newly detached accessory structure which has already been partially constructed.

CHAIRPERSON NEFF: I added partially because it was in fact in my view at the site visit partially constructed.

MEMBER CORWIN: You did make the correction.

CHAIRPERSON NEFF: Okay. Do you want to make a presentation, the owners? It’s a public hearing so you can speak about it if you want or not?

MR. CORNELL: How are you doing. Tom Cornell, 11 Bridge Street. You saw it earlier. It’s pretty much self explanatory. Nobody -- we talked to our neighbors. They're happy with it. I guess that’s it.

CHAIRPERSON NEFF: Okay.
Thank you.

MS. SCOTT: Arden Scott. I live at 404 Atlantic Avenue. Right there on Bridge Street and my studio is probably abuts their property and I spend all my hours there. I have no problem with it whatsoever.

Additionally, I think we should support young people coming into Greenport. And a lot of people’s property they can’t afford. They’re building an accessory building just for lawnmowers and nothing else. So what my understanding is, they need another foot?

CHAIRPERSON NEFF: It’s actually 2 feet, I believe. 3 feet.

Sorry. It’s within 2 feet but it’s supposed to be within 5 feet.

MS. SCOTT: I see. So they need an additional 5 feet.

CHAIRPERSON NEFF: Correct.

MS. SCOTT: So if it’s a real problem they can move the fence and they can have 3 feet. It’s my
property but it’s easier to draw a line on a map then this. I have no problem with that, if that becomes the case, which then they will not need a variance. Thank you.

CHAIRPERSON NEFF: Thank you.

MEMBER SALADINO: Just one question. That is not your primary residence?

MS. SCOTT: No. My primary residence is just across the street. We're all within a short distance of each other.

CHAIRPERSON NEFF: Okay. Any other comments from the public?

MR. PROKOP: Can I just add?

CHAIRPERSON NEFF: Yes.

MR. PROKOP: I wanted to just make the Board aware that there is a violation that has been issued against the -- Ms. Thomas that is pending in the Justice Court. The status for the -- building without a permit is what I believe it’s for.

CHAIRPERSON NEFF: What
court?

MR. PROKOP: The Southold Justice Court. The Town Court. At the first time it was on, which was just before the first hearing on this matter, it was adjourned until November to give her time to try and get -- to come before the Board and have a hearing. So that violation is still pending and will be dealt with -- it’s my intention, and unless the Board feels or the Village feels otherwise, it would be dealt with after the decision on the application. Can I ask a question?

CHAIRPERSON NEFF: Yes.

MR. PROKOP: Mr. Cornell, you're the builder?

MR. CORNELL: Yes.

MR. PROKOP: What is the height of the structure?

MR. CORNELL: It’s 15 feet.

MR. PROKOP: Okay. And the Board -- is the Board now in agreement that it’s partially
completed as compared to fully --

MEMBER SALADINO: That’s my opinion.

MEMBER CORWIN: That’s my opinion.

MR. PROKOP: Partially completed.

MEMBER CORWIN: And I would also note that certain structural pieces are missing, such as tie-down’s for 120 mile an hour winds.

MR. CORNELL: When we get the building permit then we will go ahead and make everything up to code, strapping.

MEMBER SALADINO: The plan that you gave us doesn’t reflect what is at the property now. This plan that you gave us doesn’t reflect what is there now. I mean, none of the things that are on this plan --

MS. THOMAS: Well, the architect drew that up and assuming that our -- this is approved, then
Eileen will be coming and before we got our building permit, they will be double checking to make sure that the shed is built as per the plans.

MEMBER SALADINO: For this -- in my opinion, for this Board to consider this, the plan has to be complete and correct before we get it. The building is not complete and the plan is not correct. So how --

MR. CORNELL: So what, the plans aren't --

MEMBER SALADINO: The application says for a completed building and we have decided that that is not the reality. The plans says this is what you're going to do there. The building, there is stud walls up. There is a roof on. There is roof rafters on. There is a ridge beam and not of that reflects what is in this building plan. I don't know your intention, if it was somebody that was, not you, but perhaps -- we would almost have to assume that
those things that aren't on this plan
weren't going to be incorporated into
this building, unless the Building
Inspector --

MS. THOMAS: Well, it's our
intention to have the shed built as
the plans -- as they were drew and
stamped. And I was under the
impression that the Board was just
deciding on the setback from the
property line, not on whether or not
the building is constructed properly.
That would be the Building
Department.

MEMBER SALADINO: That wasn't
my understanding.

CHAIRPERSON NEFF: Could we
get some guidance here? We certainly
-- the issue that is brought before
us is the property line. Is it -- I
mean, there have been other times
where we have strayed off on some
part of the question that is not
really our province. Could I ask for
some input?
MR. PROKOP: Okay. So normally what the Board has jurisdiction over is appeals and interpretations. So an appeal would be a denial of an application that has been submitted. So there would need to be an application to be filed for a building permit. It could be after or during construction and that would be a violation of the law, but to build -- but however the application for a building permit which would be denied by the Building Inspector could be filed mid-construction. The application for the building permit would require some type of plans to be filed. And it would be -- I do think since we're looking at something that would be constructed would be -- then be the purview of this Board to comment on whether or not the structure that is there meets something -- meets the plans that have been presented to the Board. The reason for that, although
you're not the agency that normally
reviews the plans, you're required by
law to determine what the impact of
the structure will be on the
neighboring properties in the
community. So looking at the sizing
and massing of the structure and how
close it is to the property line,
based on what it’s going to look like
then I think it’s within your proper
review.

CHAIRPERSON NEFF:  If I could
say -- one second. I understand what
you're saying but what we're also
looking at here is the details that
the building inspector would beyond
what -- we can't see what was built
actually because some things have
been covered in such a way that you
can't see them. But they're about
the safety of the building. The
tie-down’s and proper -- but the
issue of the use -- excuse me. The
area variance and how close to the
line or not, they're two separate
issues or am I wrong?

MR. PROKOP: The area variance and what else?

CHAIRPERSON NEFF: The area variance and the building -- to build it to certain specifications whether or not it’s to code or is it safe --

MR. PROKOP: No, because the problem is -- the problem is that -- the applicant has already told us that she doesn't intend to build what is there. She intends to build what is on the plans. So now there is a question -- the Board had a pre-hearing meeting at the site where this came up. Now it’s on the record because the applicant’s testimony that she intends to do construction that is not on the plans. What she really needs to do is decide -- she needs to give the Board plans that meet what she intends to do --

MS. THOMAS: I think you might have heard me wrong. I said we're building it based on the plans
that are submitted. Not, not based on them.

MR. PROKOP: What is there is not what is in the plans?

MS. THOMAS: No, that is not true.

CHAIRPERSON NEFF: I said it can't be determined because certain things have been covered with sheathing. You can't see all the parts and the details.

MS. THOMAS: There are things that are not on the plans yet because we stopped building when we got the notice from the Town to stop building. Nothing has been done. So the Board is now saying, “Oh, we don't have the strap-down's or the gutters.” I am not sure of the terms. And I am saying that those things will be checked on by the code enforcer and the Building Department and the Village. I am not sure why the Board is worrying about the inside of the shed besides just how
it look. Does it fit the neighborhood
and how far it is off the line.

MEMBER SALADINO: Because
you're asking this Board to give you
a variance for a substandard building
as it stands. If you came before this
Board before the building was built
and asked for that variance we would
have that plan in front of us and we
would assume that the building would
be built with inspection, with
oversight the way it is written on
the plan.

MS. THOMAS: Right. Why can't
they assume that case now?

MEMBER SALADINO: Because we
made an inspection. We know that is
not the case. Now the building is
substandard.

MR. CORNELL: But it will be
code.

MS. THOMAS: But we're not
finished. I guess that is what I am
saying.

MEMBER SALADINO: That is what
kind of happens, I think, when you
build a building that before you have
permission to build the building.
That is one of the repercussions that
happens. Now, we're looking at a
substandard building and you want us
to give you a variance on it.

MS. SCOTT: May I speak as a
neighbor? Directly in terms of the
neighborhood, which was mentioned
that the purpose of the Board is to
make sure it fits the neighborhood
and the neighbors are not upset about
anything. This is an accessory
building for storing bicycles and
tools. It's -- we're not talking
about the Taj Mahal. I have been
watching it. It's better built that
most accessory sheds. I can tell you
that. Especially those ones that they
sell down North Road. I have no
problem with it. Like I said, I am
willing to give them three feet of
the property line there. That is how
little really I don't mind that
building being there. So I would
think that since the neighborhood
doesn't mind it. If they're granted
the variance they actually finish it.
So that it's no longer substandard.

MEMBER SALADINO: Well, if
you're willing to give them the three
feet and move your property line.

CHAIRPERSON NEFF: Let me
point out something --

MS. SCOTT: Then if we do
that, then there is no problem.

CHAIRPERSON NEFF: Let me
point out something. The actual
giving someone three feet is a --
yes, you can say the words but
actually doing it in deeds and the
rest of it takes time and legal
usually expense, unless somebody here
is an attorney. But the part about
-- to separate to code from three
feet, I think -- I think that the
Board is asking for assurances that
it will be built to code. And the
question of the three feet is also --
it’s hard for us to talk about that
when we're not seeing in place
something that meets the code.
That’s the problem.

MEMBER GORDON: It is also
true that we sometimes grant an area
variance with a condition or two
attached to it. For instance water
issues. So I don't see how we
couldn't grant the area variance if
we decided that was appropriate
condition on a rebuilding of the
structure so that it conforms to code
and passes the inspection of a
Village Inspector.

MR. PROKOP: Everybody is
right. There is no problem with what
anybody said. The problem is already
something there that doesn't meet the
code. So that’s the stumbling block.

MR. SWISKEY: William
Swiskey, 184 Fifth Street. Eileen,
the plan that they submitted, it has
an architects stamp? You looked at
it. Is the plan proper? And if they
were to say started building tomorrow
or whatever they got, you do periodic
inspections; right?

MS. WINGATE: There are a few
changes from the plan from what I
have seen.

MR. SWISKEY: But that, you
would go there as the Building
Inspector and say that is not right.
It has to change. That is the way it
works.

MS. WINGATE: After I issue
the building permit.

MR. SWISKEY: So the plans are
okay --

MS. WINGATE: Yes, the plan
meets the code.

MR. SWISKEY: So on the first
inspection of what he got doesn't
meet the code, you tell them the
strapping, you have to do this. There
is sheathing on the building and not
siding, I assume.

MEMBER SALADINO: It’s 2/11 on
the outside. There is nothing on the
inside.

MR. SWISKEY: So the building is opened structurally basically. So if it’s going to require strapping he’s going to have to put the strapping on.

MS. WINGATE: Yes.

MR. SWISKEY: So I think this Board is getting way out of hand and looking at building details. That’s up to the Building Department. You either issue the variance or you don’t. You either allow them to do it or not. If you allow them to do it, then Eileen takes the plans and says it has to meet code. If you look at the foundation, does it meet code? That is the way it is supposed to work.

MS. WINGATE: I haven’t seen the foundation. So I can’t judge.

MR. SWISKEY: But you would go there and say this foundation is not right?

MS. WINGATE: Yes.
MR. SWISKEY: And if it’s not, they can’t continue to build because they wouldn’t get a CO. And the building would be in violation and they would be in court. So this is no rocket science here. Anyway, thank you.

CHAIRPERSON NEFF: Any other comments from the public? Is there any objection to closing the public hearing? Then we can hit this discussion when we get to the next part of the meeting? Can anybody make a motion to close the public hearing?

MEMBER SALADINO: Make a motion to close the public hearing.

CHAIRPERSON NEFF: Second?

MEMBER GORDON: Second.

CHAIRPERSON NEFF: Okay. All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.
The public hearing is closed.

We will move onto the next matter.

Thank you. And that is a public hearing about Rosa, but I think we received a notice that we want to delay it -- actually I have a question about it. Item No. 3, public hearing for Jack and Jeffrey Rosa, 506 Main Street, 1001-4-3-33. The applicant proposes to construct a new second floor roof deck over a reconstructed nonconforming mud-room powder room at the premises. Located at 506 Main Street. The premises is located in the R2 District and within the Historic District. The proposed side yard setback is .6 feet required a 9.4 side yard variance for the proposed second floor deck. Yes?

MEMBER CORWIN: Before you go on, the side yard setback is 0.6 feet.

CHAIRPERSON NEFF: And I said, .6 --

MEMBER CORWIN: No, you said,
CHAIRPERSON NEFF: Thank you.

0.6 requiring 9.4 side yard variance for the proposed second floor deck.

Section 150-12A of the Village of Greenport Code requires a 10 foot rear setback in the R2 District. I think --

MEMBER CORWIN: 10 foot rear yard setback but we're talking about the side yard.

CHAIRPERSON NEFF: Side yard.

Should say side yard.

MEMBER CORWIN: That is a mistake in the agenda.

CHAIRPERSON NEFF: Yes. It should say, side yard.

MEMBER SALADINO: Before we open this public hearing, I think I would like to make a motion to rescind the motion that the ZBA -- I would like to make a motion to rescind the motion of the application from Jack and Joan Rosa.

CHAIRPERSON NEFF: It's Jack
and Jeffrey.

MEMBER SALADINO: Then if there is a sufficient and it passes,
I would like to make a motion to return the Notice of Disapproval to
the Building Inspector, Section 150-21A is clear in my opinion.
There is a previous interpretation by the ZBA on the same portion and it’s only from February 2014. I think this -- I think we're forcing an applicant to apply for a variance when no variance is needed.

CHAIRPERSON NEFF: Okay. If we go back to your motion. If we vote on the motion then we can discuss it.

MEMBER SALADINO: Well, actually, it would be two motions. One would be to rescind the motion that we passed last month to accept the application. And then the second motion would be, that I would propose, would be to return the application -- the Notice of
Disapproval back to the building inspector.

CHAIRPERSON NEFF: Okay. Is there any comment from the public on this matter?

MEMBER SALADINO: Well, if you open the public hearing then we're in the process.

CHAIRPERSON NEFF: I think we have a motion -- excuse me, I don't know where we are on the motion. Can someone help me.

MEMBER SALADINO: I am going to make a motion to rescind the motion to accept the application for a side yard variance made by Jack and Jeffrey Rosa that the ZBA accepted last month.

MR. PROKOP: Does anybody have the public notice for tonight?

CHAIRPERSON NEFF: Yes. You mean the one that was posted?

MR. PROKOP: Yes.

CHAIRPERSON NEFF: I do not have it in front of me. While we're
going through the file, the question that we're really talking about is whether a variance is even needed at all. And the contention of your motion that it’s not. And our previous accepting of this application we voted to accept it when we in fact should have sent it to the building inspector; is that correct? Is that what you’re saying?

MEMBER SALADINO: Well, the Board voted it’s conscious. There was one member missing. The Board voted its conscious. The Building Inspector’s opinion was that six inches from the property line increases nonconformity. That is contrary to what the code says. The attorney had expressed that there was New York State code or case law that didn’t support the Village Code, which we have not been able to find or get. So it’s really not about the applicant. It’s the process. I just
I don't think that this Board should be accepting applications for variances when no variance is needed. I think it sets a bad preference.

CHAIRPERSON NEFF: So if I could, again, just for myself. We're talking about yes, the structure is nonconforming because it was built where it was built. It was 9 feet away from the property line. There is the reconstruction of a building that on inspection was needed to be replaced is in the same footprint and therefore it does not need a variance is what we're saying.

MEMBER SALADINO: The code is specific, we don't increase nonconformity by side yard, rear yard height. It's allowable.

MR. PROKOP: That is not what the code says here.

MEMBER SALADINO: I'm sorry, Joe?

MR. PROKOP: The code doesn't say what you said.
MEMBER SALADINO: Why don't I read the code for the record.

MR. SWISKEY: Yeah, read the code.

MEMBER SALADINO: A nonconforming building with conforming uses does not contain a use permitted in the district in which it is located and does not conform to the district regulations for lot area, width, depth from side yard, rear yards maximum height or lot coverage. For minimum relief floor area per dwelling unit. Such building shall be legally existing prior to the effective date of this chapter hearing. Nothing in this article shall be deemed to prevent normal maintenance, repairs, structural alterations, moving, reconstruction or enlargement of a nonconforming building, provided that such action does not increase the degree of or create any new noncompliance with regards to the
regulations pertaining to such building. Having said that, the problems --

CHAIRPERSON NEFF: Thank you.

MEMBER SALADINO: -- off street parking for minimum floor areas. In addition to that, there is an interpretation by the ZBA in February of 2013 that supported this. And if no one has objection, I will read that into the record? The district regulations --

MEMBER CORWIN: I object to reading that into the record,

MEMBER SALADINO: This is part of the official record.

MEMBER CORWIN: You asked if anyone had an objection, I have an objection. The clock is running.

CHAIRPERSON NEFF: Could you read a section of what you believe applies to that or do we need the whole thing? That is a question.

MEMBER SALADINO: No, it’s one paragraph. He’s read it. I've
read it.

MR. SWISKEY:  Can you read it to the public please?

MEMBER SALADINO:  Does it suit the Chair?

CHAIRPERSON NEFF:  Yes, read it.

MEMBER SALADINO:  The district regulations specifically addresses lot area, width or depth, side or rear yard, maximum height or lot coverage, minimum livable floor areas of dwelling.  The proposed improvement -- this was for an application for a dormer on Sandy Beach, but the interpretation varies through year because Section 150-21A. The proposed improvement does not expand beyond the existing side or front yard of the building does not cause any increase in roof elevation of the structure over the allowed height and does not increase lot coverage. It goes on to say nothing in the yard shall be deemed to
prevent normal maintenance and the
structure above was preexisting
nonconforming regarding regulations.
If the owner proposed to expand the
building beyond the existing
footprint of the building into a new
restricted front or side yard areas
proposed to expand the building
beyond the allowable lot coverage or
to elevate the building of the
allowable height of the structure the
variance would be warranted.

CHAIRPERSON NEFF: Thank you.
MEMBER SALADINO: That would
be the basis of my motion.

CHAIRPERSON NEFF: Okay. To
proceed, I believe that -- the motion
that you’re making if I understand it
correctly, is that we close the
public hearing and return the
application to the Building
Department, saying in our view does
not require a variance?

MEMBER SALADINO: Almost. The
motion that I am making is to rescind
a determination to accept the
application last month. If that
passes, then to make a motion to
return it to the Building Department.

CHAIRPERSON NEFF: Okay.

MEMBER SALADINO: If we open
the public hearing, then we have
accepted the application.

CHAIRPERSON NEFF: Then I
propose closing the public hearing
on --

MEMBER SALADINO: No.

CHAIRPERSON NEFF: It’s not
open. Okay.

MEMBER GORDON: So have you
made this motion?

MEMBER SALADINO: Well, I
would do it with the permission of
the Chair.

MEMBER GORDON: Okay.

CHAIRPERSON NEFF: Let me
finish the public hearing section --

(Whereupon, tone alarms
sounded.)

CHAIRPERSON NEFF: What I am
proposing --

MR. PROKOP: Can I ask the
Chair a procedural question? Does
anybody in the room have a public
notice of this meeting? Do we have it
in the file?

MS. WINGATE: I don't have the
whole file. I only have parts of it.

MR. PROKOP: Would the site
meeting notice the public notice,

MS. WINGATE: I have a Notice
of Disapproval. I can go back and get
the rest of the file. I am sure that
one of the legal notices is part of
your package, I believe.

MEMBER CORWIN: Let me ask
another question --

MS. WINGATE: Do you have any
green slips.

CHAIRPERSON NEFF: Excuse me,
one at a time. I didn't hear what is
going on.

MS. WINGATE: Do you have any
green slips?

MS. ROSA: I don't have
1 anything.
2                                 MS. WINGATE: Well, that’s a
3 problem.
4                         CHAIRPERSON NEFF: Are we
5 talking about the Notice of
6 Disapproval?
7                                 MS. WINGATE: No. He wants the
8 legal notice. I don't have it in the
9 file.
10                                 MR. SWISKEY: It’s up to the
11 Board. You can’t punish these people
12 because you didn’t do your job.
13                                 MS. WINGATE: Did you do your
14 mailings?
15                                 MS. ROSA: No, it was
16 scheduled for next month.
17                                 MS. WINGATE: No.
18                         MEMBER GORDON: Then that
19 makes it easy.
20                                 MEMBER CORWIN: The whole
21 thing is a do-over.
22                         CHAIRPERSON NEFF: Do we know
23 that that is accurate?
24                                 MS. WINGATE: Well, I just
25 asked her if she did her mailings.
She didn’t do her mailings then
that’s a problem.

CHAIRPERSON NEFF: Is it possible that Jeffrey or Jack did the mailings?

MS. ROSA: It’s possible.

CHAIRPERSON NEFF: Okay.

MS. WINGATE: I don’t have them.

CHAIRPERSON NEFF: To the best of my knowledge, we don’t have them,

MR. SWISKEY: Does anyone care to acknowledge Mr. Saladino’s motion?

MEMBER SALADINO: Wait, Billy. I would ask the Building Inspector, if this first motion passes, if the first motion passes to rescind our determination from last month and the second motion passes, doesn’t the notification for the neighbors become moot?

CHAIRPERSON NEFF: Right.

MR. PROKOP: I would just
October 21, 2015

object -- I mean, with all do respect
for the Building Inspector, I object
to the Building Inspector being asked
-- what I would consider to be legal
advice.

MEMBER SALADINO: It’s a
process question. Not a legal
question. I am just asking the --

MS. WINGATE: And I defer to
the Village Attorney.

MEMBER SALADINO: Then I will
ask the attorney.

MR. PROKOP: What is the
question again? I'm sorry.

CHAIRPERSON NEFF: Can I just
say that after our second site visit,
looking at what we have in the file,
what Mr. Saladino is stating that
accepting this application to rescind
that in the -- and the sense of the
members of the Board present is that
it’s not needed.

MEMBER SALADINO: That would
be determined by a vote. I would
just like to make a motion and let it
be voted up or down.

MR. PROKOP: Please don't think in any way -- I am the attorney for the Board. Whatever you decide to do, I will help you through it. Legally as best as I can. I would -- however, I was made aware today that there was a site visit earlier where this was discussed and I have been asking to see what the public notice said about a meeting, and because normally --

MS. WINGATE: It’s in here, Joe.

MR. PROKOP: And I was told that we don't have it but now we apparently have it.

MS. WINGATE: I will look through all of these papers one more time, Joe.

CHAIRPERSON NEFF: Joe, could you tell me what it is that you --

MR. PROKOP: I just wanted to see what was noticed for tonight.

CHAIRPERSON NEFF: Is it
what’s posted at the house?

MS. WINGATE: It’s what posted at the house. Apparently --

it’s a very big file. Let me go slowly through the whole file.

CHAIRPERSON NEFF: Well, I am thinking to go and get it.

MR. SWISKEY: I will go get it for you.

CHAIRPERSON NEFF: Okay.

Thank you, Mr. Swiskey.

MS. WINGATE: Thank you.

It’s the one that was in the newspaper.

MR. PROKOP: Okay. So it says that you’re going to have a site inspection. Normally, a site inspection is to take a look at the site.

MEMBER GORDON: That is what we did. It doesn’t have to be pursuant to a hearing.

MR. PROKOP: It has to be pursuant to a public notice because there is a quorum of the Board. But
there is a public notice. The thing
is, the Board put on the record that
you had a discussion about the site.
So I just wanted to make sure that
there was something in the public
notice about prior meeting, which
there is. Normally, a site
inspection you don't have such a
discussion but you had it. So it is
-- and it is in the public notice.

MEMBER SALADINO: Just one
more question, Joe before we go
through the motions and find out that
we weren't allowed to do it. If this
motion is progressed, I understand in
an interpretation you need a
unanimous by the Board --

MR. PROKOP: To change a prior
decision, I think you need an
unanimous --

MEMBER SALADINO: A prior
interpretation --

MR. PROKOP: I think that is
correct.

MEMBER SALADINO: To rescind a
motion it’s just the majority of the Board?

MR. PROKOP: I am not sure, whether it effects relief that it was going to granted or denied. I am not sure of that.

MEMBER SALADINO: I had just read here, a ZBA in another jurisdiction went back and corrected their decision. They corrected their decision by a simple majority of the Board. I am not being an attorney, and suffer the consequences if I am wrong, but I am willing to take a chance and make a motion. And if it’s voted up or down -- so I am going to make that motion to rescind the motion to accept the application for a side yard variance accepted last month by the ZBA for Jeffrey and Jack Rosa.

MEMBER GORDON: Second.

CHAIRPERSON NEFF: Okay. We have a motion. Is there any discussion? Further discussion?
MEMBER GORDON: I have heard a great deal of discussion. I think it’s a health thing to recognize that we may have made a mistake.

CHAIRPERSON NEFF: Okay. Let’s vote on the motion?

MEMBER CORWIN: Roll call vote?

CHAIRPERSON NEFF: Mr. Corwin?

MEMBER CORWIN: No.

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER CORWIN: I am going to vote, yes.

CHAIRPERSON NEFF: Ms. Moore?

This is not Ms. Moore. Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRPERSON NEFF: Ms. Neff, yes. Yes. The motion carries, 3-1.

So --

MEMBER SALADINO: I would like to make a second motion to return to the Building Inspector, the Notice of Disapproval for the second floor roof deck for Jack and Jeffrey
MEMBER GORDON: Second.

CHAIRPERSON NEFF: Okay.

MEMBER GORDON: Do we really need it? Wouldn’t it go back to you anyway?

MEMBER SALADINO: No, because just to leave it out there, there is still a Notice of Disapproval by the Building Inspector.

CHAIRPERSON NEFF: Again, the motion is to --

MEMBER SALADINO: To send back to the Building Inspector the Notice of Disapproval for a second floor roof deck for Jack and Jeffrey Rosa as per section 150-21A of the Village of Greenport Code, previous determination of the ZBA on that portion.

CHAIRPERSON NEFF: Okay. Would you word that that it does not increase the nonconformance and therefore it’s not a matter for this Board?
MEMBER SALADINO: I am --
sure.

CHAIRPERSON NEFF: Any
discussion?

MEMBER CORWIN: I didn’t hear
Mr. Saladino re-word his motion.

MEMBER SALADINO: I will try.
I would like to make a motion to
return to the Building Inspector the
Notice of Disapproval for a second
floor roof deck for Jeffrey and Jack
Rosa as per Section 150-21A of the
Village of Greenport Code and it’s
returned on the following grounds
that the second floor roof deck does
not increase the level of
nonconformance, therefore does not
need a variance.

CHAIRPERSON NEFF: Second?

MEMBER GORDON: Second.

CHAIRPERSON NEFF: All in
favor of the motion?

MEMBER CORWIN: Roll call
vote.

CHAIRPERSON NEFF: Roll call
vote. Mr. Corwin?

MEMBER CORWIN: No,

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER SALADINO: Yes.

CHAIRPERSON NEFF: Ms. Neff?

Yes. Ms. Gordon?

MEMBER GORDON: Gordon. Yes.

CHAIRPERSON NEFF: The motion carries, 3-1.

And so, we have dealt with Item No. 3 on the agenda. Let’s move to Item No. 1 on the agenda.

Discussion and possible action for the appeal of a use variance for Lydia Wells, do I need to read this all again?

MR. PROKOP: No.

CHAIRPERSON NEFF: And we're talking about a use variance. And we need a motion -- I believe we need a motion; is that correct?

MR. PROKOP: For what?

CHAIRPERSON NEFF: For our agenda item about the church.
MR. PROKOP: A motion to do
what?

CHAIRPERSON NEFF: A motion to
issue them a variance.

MR. PROKOP: No. My
recommendation is that we discuss it
before we issue a variance.

CHAIRPERSON NEFF: Okay. A
discussion on the application for two
units on a one family house to create
two apartments for the use of the
church. Not transferable to other
owners, should that happen.

MR. PROKOP: Excuse me, I
apologize. Can I ask a couple of
questions?

CHAIRPERSON NEFF: Yes.

MR. PROKOP: Legal questions.

Do we know who is in the other unit?

CHAIRPERSON NEFF: There is no
one in the unit. They're in the
process of being renovated.

MR. PROKOP: And the intention
is that they will both be rented out?

CHAIRPERSON NEFF: Yes.
MR. PROKOP: One of the problems -- I would just like to say that there is a threshold question about this application is that normally with a use variance, it’s my understanding that you cannot apply for a use variance or to change a zoning restriction that was in effect when you acquired the property. So I am assuming that the church acquired the property a long time ago.

CHAIRPERSON NEFF: Before zoning even existed.

MR. PROKOP: It's my job to tell you that normally -- the hardship for a use variance can not be claimed where the zoning restriction to be a variance from was in effect from when the property was acquired. The second thing is that we have to deal with, this is actually the churches second pass through the Board.

CHAIRPERSON NEFF: Repeat what you just said?
MR. PROKOP: The second request for relief from the Board. The first of which was 2013, which as I understand it, the granting of a use variance at that time for the - basically the relief that is requested here, if I am not mistaken here, a second dwelling unit in that building provided that it was used by an employee by that church.

CHAIRPERSON NEFF: I believe that is correct. Let's make sure we're about it.

MEMBER SALADINO: From reading this, it’s my understanding that it would be one member and then it would be open market. Now the church would like to put both apartments on the open market.

MR. PROKOP: So one of the questions with this application -- normally and I am sorry, I don't have case law for you tonight. One of the questions about use variances with regards to residential properties is
that you can always claim -- anybody
could always claim that two dwelling
and this would generate more revenue
than one or none. One or no rental
dwelling units. So usually that is a
not a recognized method of approving
a hardship that you could earn more
money creating additional dwelling
units within a residence, and that --
it’s my understanding or recollection
that that was one of the Board’s
contemplating in the prior
application and decision. That is
why it was restricted to employees
because they were not going -- it was
going to be a savings to the church
but it wasn't explained in a way to
generate -- generate income.

CHAIRPERSON NEFF: Can I make
one point about that?

MR. PROKOP: Yes.

CHAIRPERSON NEFF: I think
there was a discussion at the time.
It was -- when you provide an
employee with space to live, there is
also some compensation involved. You know, we give you this for that. You know, that reduction for something -- so I am not sure that is entirely the case.

MEMBER SALADINO: Joe, you just mentioned that two units, it’s almost taken for granted but two units will probably generate a few dollars more than one unit and that wouldn’t be considered a hardship, if I heard you right.

MR. PROKOP: It’s a test that is not applied to residential properties because you can come in at any time and say --

MEMBER SALADINO: So just reading reasons for a use variance, the applicant for a use variance must -- must demonstrate a hardship and yes, to satisfy all of the following. And that is one of the questions. So if we were to consider that, this would fail just on that.

MR. PROKOP: So the point is
then, you have to demonstrate in its current use, it does not generate a reasonable return but a residential property is not supposed to generate any return really. So I agree with you and that is the point that I was trying to make. I think it would be -- to consider this, which -- would be a precedent that the Board may not want to set because for the reasons what I said. We still have to figure out what to do with this prior variance. If this is an amendment of that or a revision of that. It stands the way it is.

MEMBER SALADINO: Didn’t it expire?

CHAIRPERSON NEFF: No. No.

MR. PROKOP: They could use the property for two employees.

MEMBER CORWIN: 12 months.

CHAIRPERSON NEFF: Why does it have a timeline on it?

MEMBER CORWIN: That is the condition that we had made at the
time. Am I not correct?

MR. PROKOP: You know what, that’s correct.

CHAIRPERSON NEFF: If I give them an opportunity to have two units and the renovations aren't complete, they're still -- the renovation is for two units, how does it expire if it’s rented for two units?

MR. PROKOP: We have had that happened.

CHAIRPERSON NEFF: But what exactly expires?

MEMBER CORWIN: The last -- is it still valid or was it 12 months ago, whatever the time period was, that no action was taken and it expired. And that is the question that I ask.

CHAIRPERSON NEFF: Then there is the last part of this. We said that the variance is terminated then the second parcel must be removed from the property if it’s ever separated from the church property.
It seems to me that you’re talking about a very long line. I don't understand the part where if I say to the church, July 17, 2013, can have two units for people connected to the church, a warden, a this or that, then if they don't do that, one year from that date, I see no where where it says that they can no longer do it. Where at the same time, we're giving it a very long life and saying but if it reverts to private ownership, we're taking this away.

MEMBER SALADINO: They --

CHAIRPERSON NEFF: Excuse me, please. One at a time. I can learn from you but I can’t hear you.

MEMBER CORWIN: We have in the passed many variances where we say you have to put gutters and leaders up on a house. So you’re saying after 12 months you can take a ride down -- it doesn’t count.

CHAIRPERSON NEFF: You have now introduced something else.
Apples, oranges and tangerines, because they are not all comparable. Not at all comparable. We're talking about a building.

MEMBER SALADINO: It was always my understanding that a variance has to be complied with and that if it’s not complied with over a certain amount of time, it reverts back to the condition before. I can’t quote the section of the code.

CHAIRPERSON NEFF: Certainly if I say that you must build a certain fence around the pool. This is very different. This is my tangerine. It’s not the same as saying you could have two units for church employees but if you sell the property at any time in the future, you no longer have two units. That is one house and that is something that lives until there is a change and it’s no longer part of the church.

MEMBER SALADINO: I think it’s the same. I am guessing. I think it’s
the same as a nonconforming building
with a conforming use. Certain
circumstances you may lose that. You
can lose that nonconforming status if
it -- if it -- well, 50% of the
value. I don't think -- this has to
be complied with.

CHAIRPERSON NEFF: If I have,
if I can remember, it’s a rooming	house. It has 5 units. It burns
down. The nonconforming use lives
but not forever and they don't ever
do anything with it and it’s no
longer able to be rebuilt. I
understand that. We're talking about
a building that exist. The ownership
has not changed. See, those are
different things. If I have it, but
I haven't gotten the tenant yet to
build the right type of door for the
exit, that if you say someone can do
that, I don't think you must have it
done in a year. Different from fence
around pool. My children drowning in
the pool.
MEMBER SALADINO: Would it compare to a building permit expiring?

CHAIRPERSON NEFF: No. It exist. If I have a building permit and I don't build a building and only lives so long, then I have to get a new building permit. This is different.

MR. PROKOP: With a different application about a year ago, we sent a notice to a person saying that there variance had expired -- was expiring and that they had to make an application to the Board for an extension, which basically would have been a new variance.

CHAIRPERSON NEFF: Could I ask about the particulars?

MR. PROKOP: Yes, it was a use of a second floor as a -- I think a second floor as an accessory building for a residence or studio.

MS. WINGATE: A studio.

There is a specific code within the
book that ties it into the
construction. That is really not
applicable to a gut rehab on the
building. I am going to find this --
a minute. So yes, variances expire
but our code ties it into
construction and whether the
construction has commenced.

CHAIRPERSON NEFF: I just want to point out that we did issue
the findings and determinations in a
decision with what I read, that it
must be removed if the parcel or
property is ever separated from the
church. That tells me that you can
go on having two units of this
version of it or church employee.
And it’s not about whether it’s
occupied or not.

MR. PROKOP: I think
separated from the church --

CHAIRPERSON NEFF: Can you explain how you’re thinking?

MEMBER CORWIN: My understanding was, that you have to
-- there are sanctions on a project
for six months or one year. The real
question is, do we have to rescind
that from 2013 or did it expire on
its own. If it didn’t expire on it’s
own then lets rescind the 2013 to
move this along.

CHAIRPERSON NEFF: I'm sorry,
I don't understand what you just
said. I have to try and find things.
They're scattered around.

MEMBER CORWIN: You can’t do
things under pressure, to find what
the code --

MS. WINGATE: Thank you,
David. It’s very hard.

CHAIRPERSON NEFF: It says it
in four places.

MEMBER SALADINO: Well, is it
possible that we can do some more
research and adjourn this?

MR. PROKOP: Well, my
recommendation was going to be that
you don't make a decision on this
tonight because there is a number of
legal issues with this application. When you got to that point, I was going to make a recommendation that you table the discussion till the next meeting.

MEMBER SALADINO: Eileen, do you think if we table this now, it will give you time?

MS. WINGATE: Then I can do my research applicably. Yes, thank you.

CHAIRPERSON NEFF: I would just like to point out because I have seen the applicants here on numerous occasions. That they're not going to complete the renovations -- not that there is like 90% of the work to be done. I would estimate, not being the builder, like 20% of work remains to be done. And they're not going to do it and certainly having the Diocese looking over their situation, legal right to do what they want to do and go forward with the property. So I am not going to oppose a motion to table but I think that if there are other
things that you think are relevant to think about, think and state them now. So that we don't come a month from now and to another point in time in which we are tabling this. I think we have been there and looked at it and we have to do our jobs. And I want to do that. I want the applicant timely comes to mind here.

MR. PROKOP: I think it’s pretty much what I said before about the reasons whether -- whether or not the reasonable return test could be applied to a residential property, and this -- now that it’s on the record that we had to do something with the first variance and now that it’s on the record that the first variance was never completed, there is that question. And I -- the idea --

CHAIRPERSON NEFF: Can I just -- the wording that you’re saying that it wasn't completed. Would completed look like a rented sign
lease. Is that what I have to have?

We did give you permission to do it and they changed -- they presented a new application where they realized that we don't have two employees of the Diocese or congregation.

MR. PROKOP: So what the code says, Section K of 150-27 says unless construction is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become null and void.

CHAIRPERSON NEFF: Again, I would like to point out that the kind of variance that we're talking about with this paragraph that is in our findings and determinations, it just doesn't -- this is talking about something that lives beyond. Whether it was vacant for five months or -- you know, this use variance of this particular property, it seems at odds with that.

MR. PROKOP: I'm sorry --
CHAIRPERSON NEFF: You're saying for sure that this was to have been done in six months?

MR. PROKOP: Yes. The problem is and we did do this to a prior applicant just about a year ago. We actually told somebody that their variance was expired because they didn’t complete what the -- the use that they got approval for. So it has come before the Board before.

CHAIRPERSON NEFF: I would ask that we know the particulars about that and determine whether they are in any way comparable. I think that an abstraction fits all the occasions. In this case, Item No. 1 does.

MEMBER SALADINO: What would be the problem to separate this from the current application? I am not sure --

CHAIRPERSON NEFF: This is what -- we did determine this and the new application is asking us to
change one part of it from two employees or somehow relay it to the church in some way, to two people who live there with a legal lease and it’s not -- they don't have to be somebody who serves the church in Southampton and Riverhead and something else that has to do with the Diocese. That is what this is about.

MR. PROKOP: Only because you asked me. The only comment that I want to say and I am not looking to start a big debate but it is my comment, we have language that if the residential unit was separated from the church that the -- that the variance would be rescinded. I think the spirit of that was the use of the property. So the basis of the original variance in 2013 was that we were going to help the church by letting employees reside in that building. So to now separate that use and turn it into an income generating
rental property, I think it might go
to that language of separated by the
church. But I would ask for time to
consider that and make a
recommendation to the Board.

CHAIRPERSON NEFF: I would
like to hear again your motion or
anyone from the Board, to table this
matter till the next meeting?

MEMBER CORWIN: I make a
motion that the application of Lydia
Wells for Episcopal Church be tabled
and once that --

CHAIRPERSON NEFF: A second
please?

MEMBER SALADINO: Second.

MEMBER CORWIN: I would like
to ask Ms. Wells, if she would accept
that?

MS. WELLS: Consent to table?

MEMBER CORWIN: Yes.

MS. WELLS: I mean, I will
consent to it. I am going to be out
of town next month but if someone
else can be here.
CHAIRPERSON NEFF: We have a vote on the motion.

MEMBER CORWIN: Aye.
MEMBER SALADINO: Aye.
MEMBER GORDON: Aye.
CHAIRPERSON NEFF: Aye.

The motion carries.

MR. POLLEO: Is there any additional data that needs to be supplied to you or --

CHAIRPERSON NEFF: None that I know of but let me ask others present? Anybody?

MEMBER SALADINO: I think it’s this Board waiting on the opinion of the attorney.

MS. MILLER: So this will happen at the next meeting?

CHAIRPERSON NEFF: Yes.

MS. MILLER: Because I have to get out of work early. I work in Riverhead. So I had to leave out of work early to get here by 5:00. So I don't want to waste time. So there will be a decision next time?
CHAIRPERSON NEFF: Yes.

MR. PROKOP: You can just
tell her to come at 5:30 and we will
move it down further on the agenda.

We will notice it on the public
notice that it won't start till 5:30.

MS. WINGATE: We closed the
public hearing.

CHAIRPERSON NEFF: So it will
be 5:30 at late.

MS. MILLER: Okay.

CHAIRPERSON NEFF: Moving to
Item No. 2, discussion and possible
action on an appeal for Marta Thomas
#1001-2-10.1. The applicant seeks a
building permit for a new detached
accessory building for a structure
that has been partially constructed.

My opinion of partially. The
property is located in the R-1. Two
feet from the property line requiring
an area variance of 3 feet for the
rear yard setback. Section
150-13A-1B of the Village Code
requires a 5 foot setback for the
rear or side yard lot lines. Now we have discussed this. Is there any further discussion at this time? And I think of someone who had a better retained memory can say exactly where we are? Can you help me out members?

MEMBER SALADINO: I think now is the time to either --

MR. PROKOP: When you said members, I apologize.

CHAIRPERSON NEFF: Go ahead.

MR. PROKOP: There was a comment made during the hearing and with all respect to the building inspector, I think that you are voting on these plans and then that’s it. There should not be an adjustment on the plans. And that's it. If they decide something else or they do something else, I think they will have to come back. And that would be a condition of anything that is done.

CHAIRPERSON NEFF: For an application for an area variance
based on the plans that we have is
what we're going o go through the
questions unless there is any further
discussion?

MEMBER CORWIN: The only thing
that I wanted to talk about is, the
existing survey they had shows a
shed. The shed is an 8 foot shed. It
doesn’t say proposed shed. So in
actuality, do we know really where
that shed is on that property? It
just shows a fence on .4 feet.

MEMBER SALADINO: It shows
the fence. It shows the shed 2 feet
from the property line.

MEMBER CORWIN: I just wanted
that noted to the Board. Do we need
any further information about exactly
where that partially constructed shed
stands now? My understand would be
that when its completed, there would
have to be a survey showing exactly
where it is. So I throw that to the
Board to see if you need any
additional information.
CHAIRPERSON NEFF: Thank you.

We have heard from the adjoining lot owner to the -- closest to the shed. I think the exact location of the fence being shown on a new survey when the project is complete; is that correct?

MS. WINGATE: In order to get a certificate of occupancy, yes. I would need a new current survey.

CHAIRPERSON NEFF: And that matter is about once -- I agree that it should be provided but since we have heard from Arden Scott, we do not, I think, have to determine its exact location and it’s possible for me, I don’t know about the rest of you to decide this matter. Any other comment?

MR. PROKOP: The shed that is shown -- are your eyes good enough --

MS. WINGATE: 2 feet.

CHAIRPERSON NEFF: It’s 2 feet.

MR. PROKOP: Okay.
MEMBER GORDON: Do we want to attach a condition about the survey or not or do we assume? I think we can assume it because it wouldn’t be possible to get the C of O without it.

CHAIRPERSON NEFF: Exactly.

MR. PROKOP: You can put that in the condition.

MS. WINGATE: You should.

MEMBER CORWIN: The deck is not shown on the survey.

CHAIRPERSON NEFF: Correct.

MEMBER CORWIN: So I don't think we can accept it.

MEMBER GORDON: We're not accepting it.

MEMBER CORWIN: We're supposed to have an accurate survey.

CHAIRPERSON NEFF: The sense of the Board is to proceed. We either ask a -- are you asking for an updated survey but it doesn’t -- it seems to me that you get an updated survey when you complete this whole
MR. PROKOP: Her completion -- what is going to come up in the Justice Court is whether or not she constructed without a permit, which is what the charge is.

CHAIRPERSON NEFF: So it may not have anything to do with the survey?

MR. PROKOP: It has nothing to do with the survey.

CHAIRPERSON NEFF: Okay. I would like to have someone on the Board to make a motion on this about an area variance and noted that you suggested that we should have a more accurate survey?

MR. PROKOP: The first motion would be to adopt Lead Agency status and determine that the area variance is a Type II action.

CHAIRPERSON NEFF: Can someone make that motion?
MEMBER SALADINO: I make a motion that the Zoning Board of Appeals acts as lead agency and this is a Type II action as it pertains to SEQRA.

CHAIRPERSON NEFF: Second?

MEMBER GORDON: Second.

CHAIRPERSON NEFF: All those in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.

Okay. Excuse me. Do we need a motion about --

MR. PROKOP: The questions are first.

CHAIRPERSON NEFF: The questions are first. Thank you.

MEMBER GORDON: And you have to record the votes.

CHAIRPERSON NEFF: Of course.

The area variance reasons. No. 1, whether an undesirable change will be produced in the character of the
neighborhood or a detriment to the nearby properties by the granting of this area variance? Mr. Corwin?

MEMBER CORWIN: No.

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER SALADINO: I vote, yes.

CHAIRPERSON NEFF: Ms. Gordon?

MEMBER GORDON: No.

CHAIRPERSON NEFF: Ms. Neff, no.

No. 2, whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance?

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER SALADINO: Yes.

CHAIRPERSON NEFF: Ms. Gordon?
MEMBER GORDON: No.

CHAIRPERSON NEFF: Ms. Neff, yes.

Whether the requested variance is substantial?

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER SALADINO: No.

CHAIRPERSON NEFF: Ms. Gordon?

MEMBER GORDON: No.

CHAIRPERSON NEFF: Ms. Neff, yes. No, I am going to say, no. I’m sorry.

No. 4, whether the requested variance will have an adverse effect or an impact on the physical or environmental condition in the neighborhood or district?

Mr. Corwin?

MEMBER CORWIN: No.

CHAIRPERSON NEFF: Mr. Saladino?
MEMBER SALADINO: No.

CHAIRPERSON NEFF: Ms. Gordon?

MEMBER GORDON: No.

CHAIRPERSON NEFF: Ms. Neff, no.

No. 5, whether alleged difficulty was self created whether considerations shall not be relevant to the decision to the Zoning Board of Appeals but shall not necessary preclude the granting of the area variance?

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRPERSON NEFF: Mr. Saladino?

MEMBER SALADINO: Yes.

CHAIRPERSON NEFF: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRPERSON NEFF: Ms. Neff?

Yes. Okay. Now, I am not sure how I determined whether it passed or
MR. PROKOP: There has to be a motion.

CHAIRPERSON NEFF: Excuse me, I apologize. So we did the questions and now we need a motion.

I guess I can propose it to grant the applicant, Ms. Thomas an area variance for the construction of an accessory building on her property at 212 Bridge Street as proposed.

MR. PROKOP: Can I make a recommendation?

CHAIRPERSON NEFF: Yes.

MR. PROKOP: I was going to make a recommendation as far as conditions. So that the accessory building not be used for habitation or residence purposes. That a -- before the commencement of work, that a proper set of plans be filed indicating the structure as its to be built. If there is any change in the structure as -- anything varies from the plans that what are now, the
applicant be required to come back before the Board. And that’s -- those are the only recommendations that I have.

CHAIRPERSON NEFF: Any recommendations or additions from the Board?

Okay. So I amend the motion to grant the area variance for the property at 211 Bridge Street for Ms. Thomas, granting the area variance as proposed but with subject to the conditions that it not be used for habitation, that proper plans be filed with the Building Inspector and that any change in the ones that have been presented to us would warrant returning to the Zoning Board of Appeals. May I have a second?

MEMBER GORDON: Second.

CHAIRPERSON NEFF: All in favor?

Mr. Corwin?

MEMBER SALADINO: Excuse me, are we voting to grant the variance?
CHAIRPERSON NEFF: Yes.

MR. PROKOP: It’s a motion to grant with the conditions.

CHAIRPERSON NEFF: Yes. Any discussion?

Mr. Corwin?

MEMBER CORWIN: Yes.

MEMBER SALADINO: No.

CHAIRPERSON NEFF: Mr. Saladino?

CHAIRPERSON NEFF: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRPERSON NEFF: Ms. Neff?

Yes.

So the variance with the conditions is granted.

Moving on to the other agenda items. Item No. 4, motion to accept the ZBA Meeting Minutes from the September 16, 2015 meeting. So moved.

MEMBER GORDON: Second.

CHAIRPERSON NEFF: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.
MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.

Item No. 5. Motion to approve the ZBA Minutes for the August 19, 2015 meeting. So moved.

All in favor?

MEMBER CORWIN: You need a second?

CHAIRPERSON NEFF: Second, please?

MEMBER SALADINO: Second.

CHAIRPERSON NEFF: All in favor?

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.

MEMBER CORWIN: Abstained.

CHAIRPERSON NEFF: Item No. 4, the Aye’s were 4. None opposed. Item No. 5, the Aye’s were 4, none opposed?

MEMBER CORWIN: No, because I am abstaining.

CHAIRPERSON NEFF: Item No. 5, motion to approve the minutes for
August 19th meeting --

MEMBER CORWIN: I abstain.

CHAIRPERSON NEFF: 1 abstention and 3 Aye’s.

Motion to schedule the next regular ZBA meeting for November 18th.

MEMBER SALADINO: Second.

CHAIRPERSON NEFF: So moved.

MEMBER SALADINO: Second.

CHAIRPERSON NEFF: Before we take a vote on this, do we have any applications pending?

MS. WINGATE: At this moment there are none.

CHAIRPERSON NEFF: Okay. So that the meeting would be scheduled at 5:00 here at the firehouse.

All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.

CHAIRPERSON NEFF: 4 Aye’s.

No Nay’s.
Motion to adjourn.

MEMBER SALADINO: Second.

CHAIRPERSON NEFF: So moved.

MEMBER SALADINO: So moved.

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

CHAIRPERSON NEFF: Aye.

4 Aye’s. No Nay’s.

(whereupon, the meeting concluded.)
CERTIFICATION

I, Jessica DiLallo, a Notary Public for and within the State of New York, do hereby certify:

THAT, the witness(es) whose testimony is herein before set forth, was duly sworn by me, and,

THAT, the within transcript is a true record of the testimony given by said witness(es).

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

IN WITNESS WHEREOF, I have hereunto set my hand this day, November 1, 2015.

______________________________
(Jessica DiLallo)

* * *

* * *