VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK

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ZONING BOARD OF APPEALS
REGULAR MEETING

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Third Street Firehouse
Greenport, New York

December 16, 2015
5:00 P.M.

BEFORE:

DOUG MOORE - CHAIRMAN
ELLEN NEFF - MEMBER
DAVID CORWIN - MEMBER
JOHN SALADINO - MEMBER
DINNI GORDON - MEMBER
EILEEN WINGATE - VILLAGE BUILDING INSPECTOR
PAUL PALLAS - VILLAGE ADMINISTRATOR
JOSEPH PROKOP - VILLAGE ATTORNEY
INDEX OF DISCUSSIONS

* There were no Public Hearings for this Meeting.

<table>
<thead>
<tr>
<th>NAME</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Holy Trinity Church</td>
<td>3-48 (45)</td>
</tr>
<tr>
<td>Robert Moore</td>
<td>48-57 (9)</td>
</tr>
</tbody>
</table>
CHAIRMAN MOORE: I will call the meeting to order. It’s about nine after five. This is the regular meeting of the Greenport Zoning Board of Appeals. This is our December 16th meeting. We have a fairly short agenda tonight but we do have some matter that we need to spend a little time on, which is Item No. 1. Continued discussion and possible action on the appeal for a use variance for Lydia Wells, Warden of Holy Trinity Church. SCTM #1001-2-3-5. The applicant proposes to construct a second residential unit in an existing one-family house in the R1 District. Section 150-7A(1) does not permit any building to be used, in whole or in part for any use except one-family detached dwellings, not to exceed one dwelling on each lot. ZBA site inspection back in August.
Just would like to review where we are. We were moving towards a decision at the last meeting and one of the members questioned that the property might actually be two parcels residence. We were discussing that it was on its own plot. Perhaps this was confused. There has been a fairly detailed discussion of the fact that the church is paying property taxes on a portion of the property because of issues that arose from their use of the property for residential use. They were considered tenants on the property. Anyway, we do have a letter which was provided. It was dated November 19th and it is to the Episcopal Church and it’s from Robert Scott, Chairman of the Board of Assessors. The above referenced property is currently one parcel on the assessment roll on the Town of Southold. It
includes the church dwelling and a garage. It’s quite clear that it was our understanding that the property was one parcel, but we asked for clarification. I would just like to point out also that some concerns arose. Actually the day after our meeting and subsequently resulted in the request from the church regarding additional activities at the church. That the church is now sharing its facility with the First Universalist Church in Southold because they lost their church to a fire. The only reason this came up because there was some questions whether this arrangement had any significant financial consequences, which might affect the financial's which we were examining, which was the basis for the reasonable gain questions. A critical part of the use variance consideration. And I
won't read it into detail but we will put it into the record. The church did respond and indicated that they're receiving a donation which is only about -- on a parishioner basis, only about a $3.00 contribution. And it’s a donation to the church and there is no lease agreement, and in a sense, the church is providing their facilities as a benefit. I believe the recreational hall is going to be used. Is being used for the services. I don't know if any members want to critique the letter. It explains the relationship. The only thing is this caught us off guard because this arrangement -- we weren't aware of this arrangement at the meeting.

MS. MILLER: It wasn't finalized at the meeting at the time.

CHAIRMAN MOORE: It was in
the paper the next day. So we had to
assume that some arrangements were
made. As it turns out, perhaps the
reason for not mentioning it, in your
opinion it really didn't have much
difference. Does the members have
any comments regarding that letter
and whether any of the new
information that we have changes
any of the activities that we have
done so far? I would also like to
mention that last month prior to us
having to push back because of the
question about the parcel and it’s
separation from the church itself, we
were actually in the process of
moving forward with the voting on the
variance. We have moved through the
four questions, which as most people
know has to do with reasonable return
questions. Whether the hardship is
unique and whether the variance did
not alter the essential character of
the neighborhood and whether the
variance was self created. I will
just review that across the board,
the voting was 3 in support of the
questions and 2 not in support of
the questions, which resulted in a
pass vote for all of the questions.
We did not make a motion at that
point to approve the test whether we
would approve the variance or not.
And one of the considerations that we
have to make for this -- it’s not a
simple as one would imagine. One of
the questions that comes up is the
RLUIPA Federal Law. We had a lot of
discussion on that because while the
property contains the residence which
is under consideration for the use
variance, it is part of the overall
curch property. Whether or not the
income derived from the rental is
considered a rental activity separate
from the churches activity and not
religiously based or whether this
activity is pretty much -- I am
trying to think of the right term.
Ingrained in the activities of the
church to support the religious
activity. We have had a lot of
discussion about the reasonable
return. The return is that there is
not a huge difference between the one
family versus the two family
occupancy but there is a difference
and questions come up of what
constitutes a reasonable return. And
one of the other issues is whether
this is unique to this property or
could be considered more general to
the neighborhood. And of course the
uniqueness of this situation involves
the fact that it’s a church property.
We discussed at some length the use
of residences in the neighborhood.
And there are a number of two family
residences operating already in the
one family district. And that is
kind of where we are. And if any
Board members would like to make any
further comments, then we could move
on to another step of the process.
Members of the Board?
MEMBER CORWIN: I would just like to note that there are not a lot of two family residences in the neighborhood. And the Chairman, you Mr. Chairman, tried to say that this is close to the boundary that is on Main Street. So somehow you tried to tie that into because half a block away is zoned two family and somehow that gave it some kind of permission to be a two family on the church family and I don't agree with that.

CHAIRMAN MOORE: I don't know if I would agree with that. I was just pointing it out. I don't know if I said that was a defining issue. I just pointed that out. Any other discussions?

MEMBER SALADINO: I had asked the attorney if the proximity to another district -- if the proximity of an R1 to an R2 would make a difference or is the line the line?

MR. PROKOP: I think it’s
something that you could take into
consideration. In your review of the
criteria, you could take that into
consideration. So in other words, if
one of the criteria is the impact on
the neighborhood, you know and if the
neighborhood includes some R2 because
you are close to the R2 zone -- I am
not saying one way or the other. I
am saying that you could take that
into consideration, yes.

CHAIRMAN MOORE: To add to
that, looking basically into the
other direction into the R1 district,
the real question comes up is whether
this change would have an impact on
that district.

MEMBER SALADINO: In looking
at the map that Eileen supplied us of
the two family houses in the R1
District, I only count three as
opposed to the overall one family
homes.

CHAIRMAN MOORE: As we know.

MEMBER SALADINO: So I mean,
but the church property is
practically adjacent to R2 zone.

MEMBER NEFF: I think that
Joe, you talked about a R2 house and
an R1. It means it's a two family
house that happens to be in this
Village and how a house became a two
family house has to do with things
that happened long before we had any
zoning. Many of the zones in this
Village have one, two and three
family houses. And that's not
unusual that has evolved. I think we
have this zoning that we are dealing
with now -- modified over time since
as 1960. Even later than that. So I
would think that is an unusual thing.
Also, it doesn't mean that I am more
likely to get a C of O for a two
family house. It depends on the
house. It depends on many things
about it. And those factors should
also be looked at in this case. The
parking. The size of units. The
proposed units, etcetera.
CHAIRMAN MOORE: Any other comments from the Board? One thing that I want to be sure to ask the Board members is we have had a little bit of new information since we partially entered into the voting process. We answered some questions. Does any Board member feel that with any new information that this has had effect on the votes that have already been made?

MEMBER SALADINO: I do. In reading the NYCOM handbook and in reading the Zoning Guidelines from the New York Department of State and some of the examples that they give are quite clear. One of them is, that because you can expect to make a greater profit if you get the variance -- I am just having a hard time about two of the questions about reasonable return and self created hardship. If you are talking about land use. If we are talking strictly about land use, the guidelines are
clear. The examples that NYCOM gives and the examples that the New York State Department gives from the Guidelines, an applicant --

CHAIRMAN MOORE: It’s whether reasonable gain can be attained from any permitted use.

MEMBER SALADINO: No, if any additional gain could be attained.

CHAIRMAN MOORE: I will ask Mr. Prokop a question. Since we have not finished the voting process, if any member has a change of heart from any of the previous votes that have been taken, can they change their mind?

MR. PROKOP: Yes. I just wanted to comment on what was said. My understanding is that the word is return and it’s the difference in return between -- if the variance is not granted and if the variance is granted, if I understand the question.

MEMBER SALADINO: Did I
misstate that?

MR. PROKOP: I thought --

MEMBER SALADINO: I am just asking, perhaps I misstated. I wrote down the statute.

MR. PROKOP: I thought that was the question you were asking.

What was the question?

CHAIRMAN MOORE: John was referring to his analysis. The only new information I was referring to that there was some doubt about the parcel about it being a single property, which was confirmed. And the other information with the new information that there might have been some financial arrangements with the church as submitted with new information, which indicated that there is limited financial gain. It’s more of hospitality. With that in mind, that is why I felt it was important to ask the members if any of this new information change -- to be given an opportunity if you felt
any of this new information would change that, you could do so. If I don't hear any new information then --

MEMBER CORWIN:  Question?

CHAIRMEN MOORE:  Yes.

MEMBER CORWIN:  You are treating those fives is it? Four questions as yes or no. And as I pointed out last month that they're very difficult to understand. My understanding is that those questions are guidelines for a discussion. They are not the yes or no vote. You could vote yes and no and yes and no. That doesn't mean that is how you are going to vote in the end. You presented them somehow that is how they are going to be.

CHAIRMEN MOORE:  Not at all.

I was just indicated that the votes are so far reported only on the four questions. Those are you indicated as guidelines. And I think we have been over this a number of times for
area variances that any failure of
those questions in itself does not
condemn a variance motion.

    MEMBER SALADINO: But that
is not the same as a use variance.

    CHAIRMAN MOORE: And for a
use variance, one of the questions is
that an applicant can not realize a
reasonable return.

    MEMBER SALADINO: No. If a
question fails, it would -- I would
ask the attorney, if one of the
questions failed with a use variance
as opposed to an area variance that
it wouldn't be sustained?

    MR. PROKOP: I think a use
variance is a higher test. And I
think the test is that they have to
meet all four criteria. I think that
is correct.

    CHAIRMAN MOORE: I think the
significant gain or the reasonable
return question is one of the key
ones. From the paperwork that I am
reading through, it seems that that
is the difficult question. A use variance is based on the inability to have the reasonable return for any permitted use. These other questions support the process for a final motion which is, I believe the most critical issue, there is a motion to approve a variance or not. Now, keeping in mind that almost always the Zoning Board do we approve a variance without any conditions because the Zoning Board of Appeals may apply stipulations and reduce the impact of a granted variance. So at this point, we need to entertain the idea that we would probably wish to put some stipulations we have been discussing all along. I would just like to say at the last meeting, I believe we discussed that we would prepare a potential list of conditions should a variance be granted. And the process has been that I have sent a number of items to Mr. Prokop which he reviewed and he
provided just today a list of potential stipulations. I would like to go through those. A few of them I think we may wish to not use but this only applies to the conditions that would be applied to the motion and would only be applied if the motion was approved and the variance granted. So first of all, I think we discussed this use variance shall only remain in effect while Holy trinity Church is the owner and in possession of the property and the use variance shall terminate on any change of the ownership or possession of the property and any subject thereof. Number two, the ownership and control of a two family residence shall remain in the Holy Trinity Church or its diocese administration only. Any revenue from the two family rental shall be paid and received by the Holy Trinity Church or its diocese and administration only. The building that is the
subject of the use variance shall remain on the same parcel. We had discussed this. There should be no subdivision of that parcel. In the event of a subdivision of the parcel, the use variance use of the building for R2 use shall terminate. No. 5, R2 use of the subject building shall be consistent with the plans dated -- I don't have the date. That would be entered by the Village of Greenport Building Department. Any change of the structure of the subject building shall be approved by the Zoning Board of Appeals. Use of the building must otherwise be in accordance with the Greenport Code and the Code of New York State. This we may wish to discuss. Any change of use of either of the apartments of the subject building or any portion thereof other than single family residential use shall terminate the use variance. I don't know if that would be necessary. It's hard to understand
because the intended use is residential and the code issues if it was used other than for residential purposes. Keep that in mind. The rental apartments in the subject building shall be for periods that are not less than 30 days. I think I mentioned that before. Lastly, which I questioned, the rental licensing subleasing or sharing or for compensation or any other portion of the subject property must be approved in advance by the Zoning Board of Appeals. It may be the discretion of the Zoning Board to determine if there needs to be a variance. I don't believe we should have any authority to look at the overall operations of the church financial's beyond any possible variance being granted. I think that might exceed our authority. So if everyone is looking at a copy, my recommendation would be that we adopt all but No. 7 and No. 9. Does that make sense to
everybody? That these would be appropriate stipulations. Perhaps everyone should take a minute to read. Perhaps there might be some edit/changes.

MEMBER NEFF: I think No. 3 is redundant as well. I agree with you with 7 and 9 are unnecessary in my opinion, but also No. 3.

CHAIRMAN MOORE: I think No. 3 the intention was that the proceeds --

MEMBER GORDON: It seems to me that it amplifies No. 2. There is a part of ownership and control and exceeding those revenue.

CHAIRMAN MOORE: So combine 2 and 3 together?

MEMBER GORDON: No. I think 3 should be omitted.

CHAIRMAN MOORE: I think the discussion, that this was intended to be for the benefit for the church. It’s hard to imagine and I can understand -- you want to simplify
and eliminate No. 3?

MEMBER GORDON: Yes.

CHAIRMAN MOORE: Anything else?

MEMBER GORDON: This is a very small thing but the word, “only” in Number 1 should come after remain in effect. Should remain in effect only --

CHAIRMAN MOORE: Yes. I understand. Okay. Any other comments from the Board?

MEMBER CORWIN: Question for the attorney. Are these legitimate stipulations to put on a motion of an approval?

MR. PROKOP: Yes. I think the test is if the questions are reasonably related to the use or the governments of the approval and I think if this was going to be approved that yes, they are.

MEMBER CORWIN: So then it would stand up when you have to take them to court?
MR. PROKOP: Yes.

CHAIRMAN MOORE: I think one consideration which doesn't have to be a consideration in a motion is that I believe any positive vote would include any deference of RLUIPA requirements because this is not a straight motion versus residential decision.

MEMBER SALADINO: Although this is owned by the church, it's not church business. I thought I had asked the attorney if this, RLUIPA pertained to this particular application.

MR. PROKOP: I think we discussed that at the last meeting.

CHAIRMAN MOORE: I think there was some comparisons made to other parcels and certainly would make a difference. I am kind of playing devil’s advocate here, forgive me for saying so. When we start analyzing activities, if they had a cupcake sale and it wasn't
directly related to religion practice and that was a benefit of the church, would the building inspector serve violations on that? I don't think so.

MEMBER NEFF: In fact this particular church has many activities, whether within in the organization or -- it certainly doesn't rise to the level of commercial. When we approved this for when it was going to be church employees back in July of 2013 we made three lines. One condition and three lines, which was the variance is terminated and a second dwelling must be removed if the parcel is ever separated from the church property, sold for other use and if they failed to meet the use requirements within the Village of Greenport Zoning Board code. Basically, you could have two units and you can't have it separated.

MEMBER SALADINO: That's
true. In all fairness, you have to
compare apples to apples.

MEMBER NEFF: No, we have
two different conditions.

MEMBER SALADINO: The reason
behind the Board at that time -- I
wasn't on the Board at that time, but
the reason behind the Board at that
time would -- at that time because
they were church employees and they
were involved with the church. It
wasn't an outside rental.

CHAIRMAN MOORE: It’s a
slight change or a significant
change. Depending --

MEMBER NEFF: I definitely
agree with those conditions.

CHAIRMAN MOORE: I think we
can discuss this and continue to go
back and forth. I think it’s going
to come down to each one’s personal
determination and their own
measurements and what we have
discussed. I am prepared. Are you
--
MR. TASKUR: May I be heard please?

MR. PROKOP: Can I just ask a question?

CHAIRMAN MOORE: Sure.

MR. PROKOP: I just want to make sure we did SEQRA. It has been a while --

CHAIRMAN MOORE: Yes.

Because there is a requirement of a coordinated review and I was absent from that meeting, it was voted on November 16th and the coordinated review was conducted and not found to have any significant effect.

MR. PROKOP: Okay. So a while ago we adopted lead agency status and had determined that it --

CHAIRMAN MOORE: Yes.

MR. PROKOP: We do have a vote on the record?

CHAIRMAN MOORE: Yes. I believe Mr. Taskur is interested in speaking but I believe we have taken public testimony -
MR. TASKUR:  I would like to be heard.

MR. PROKOP:  It’s the chairman’s discretion.

CHAIRMAN MOORE:  Before going into your comment, can you describe why --

MR. TASKUR:  It’s a procedural issue as to the availability of information and the public comment thereon over the course of the hearings and meetings that have been held on this particular application.

CHAIRMAN MOORE:  And what do you assert is missing?

MR. TASKUR:  Public comment. There has been leakage of information for this application ever since the public hearing was ended some months ago. And as to which the public has not had an opportunity to comment. The Board itself has gone out of its way to make sure that each of the chair -- to make sure that each
member of the Board has had an
opportunity to review and digest and
simply, the new information that has
been provided during the course of
this application, the public has
not. And that is the point that
needs to be addressed. And as to
which there needs to be a reopen of
the public hearing.

CHAIRMAN MOORE: Do you need
to think ability that for a moment?

MR. PROKOP: The only
addition to the record that I am
aware of is at the last meeting, the
last meeting I expressed a concern
about the possible sharing of the
church. I had mentioned that -- only
because I am from a different part of
Long Island. That there were -- it
had become more common that churches
were sharing space and I mentioned
that if we just -- just consider that
in the review. That if that was to
happen and somewhat provided for, and
we were assured that was not going to
happen. And then the next day, I started getting emails about a newspaper article. And I just -- the response to that was a letter we received, I believe, we have now made part of the record. So that was the only addition that I am aware of.

CHAIRMAN MOORE: I believe as far as the arrangements, the modification of the structure and the occupancy of use has not changed. And perhaps if the Board feels it’s not significant enough to do so, the Appeals process could prevail for any other public concerns. I believe in my opinion there hasn't been substantial enough information to change the overall information for the Board nor would the public comment change that.

MR. TASKUR: I beg to differ and disagree. After the public hearing was concluded, it is only since that time that any of the
financial information upon which this
Board seems to be making its decision
has been provided and the public has
not had an opportunity --

CHAIRMAN MOORE: It has --

MR. TASKUR: Please don't
interrupt me.

CHAIRMAN MOORE: You made a
statement which I think is incorrect.
I believe the financial information
was available at the time --

MR. TASKUR: It has been
updated and altered and changed. The
finances of the church have been
trans modified into the rate of
return for a single family versus a
two-family dwelling. There has been
no opportunity for the public to
address those, let alone to
understand them and know how they
have impacted on this Board’s
decision.

CHAIRMAN MOORE: Okay.

MR. TASKUR: That needs to
be commented on --
CHAIRMAN MOORE: So you are stating that --

MR. TASKUR: I'm sorry?

CHAIRMAN MOORE: These changes in which you say have not been in the public eye, you just stated do effect the determination --

MR. TASKUR: I didn't say that.

CHAIRMAN MOORE: I am trying to interpret what you said because you said a number of things.

MR. TASKUR: What don't you understand?

CHAIRMAN MOORE: You just stated and correct me if I am wrong --

MR. TASKUR: You can have the record read back.

CHAIRMAN MOORE: I don't know if she could do that at this point. You are indicating that all that other information did not effect the determination which is the significant one --.
MR. TASKUR: I didn't say that. I said none of that information was available to the public to comment on. Even those this Board has been dredging it through and back and forth for the past several months while this application has been going on. The public has been shut out.

CHAIRMAN MOORE: I think it has been in the public eye and we discussed it.

MR. TASKUR: But the public has not had an opportunity to address it and comment on it as they did at the time of the public hearing.

CHAIRMAN MOORE: Mr. Prokop, what is your opinion as to our direction?

MR. PROKOP: I am not sure of the date in which the public hearing was closed. I am not sure if it was October or November.

MEMBER CORWIN: I believe it was October.
MR. PROKOP: So we have new -- there was additional financial information that was provided after the close of the public hearing.

MS. MILLER: No. Because last month I was here and every -- you had all that information at that point. Lydia wasn't here. Everything was prior to that meeting.

CHAIRMAN MOORE: What would be your suggestion, Mr. Prokop?

MR. PROKOP: If Mr. Taskur would like to make a statement on the record then we will -- I recommend that you accept it on the record. The file has always been at Village Hall and if there was question or not of whether he could make a comment, he can make it now.

CHAIRMAN MOORE: I am not trying to put words in your mouth but you were speaking of a broader requirement at a public hearing but would you like to make a comment understanding that you are not
representing the public at large?

MR. TASKUR: I would like to have an opportunity to review the financial information which was provided after the close of the public hearing, in which all the members of this Board seem to be considering in their decision, whether they are favoring it or not. I would like the opportunity to review that and make a public comment on it and be heard by the public as well as this Board. So my assessment of this situation is factored into the Board’s decision and process. You have to bear in mind that you are making a spot zoning decision as to which the law does not favor. So that is why I think you need to take precautions with regards to the publics access to discuss their feelings about the information that has been presented. Am I making myself clear now?

CHAIRMAN MOORE: I think I
understand what you're saying.

MR. TASKUR: Good. Thank you.

MEMBER NEFF: May I raise one point? It seems to me that we got information about finances in two separate timeframes. The first timeframe, I don't have anything to identify it in front of me because I don't have the whole file. I do have that received additional information on August 30th. August 30th in some -- approximately 15 pages, which may be some of what you are asking to look at. What I am saying to you, did you review financial's from the earlier information?

MR. TASKUR: No, I have not.

CHAIRMAN MOORE: I believe that information was available and was submitted on August 30th and was before the close of the public hearing, which I believe --

MR. PROKOP: Can we just go through the files and see when things
were stamped in? We need to figure what the record is.

MR. PALLAS: We have records from Holy Trinity dated August 30th. That was stamped in August 31st.

CHAIRMAN MOORE: Since the coordinated review --

MEMBER NEFF: In other words, we had asked for more and this is what they did. It’s not the only time that we got information.

MR. PROKOP: I had my date wrong before. I knew there was additional information. I apologize to the Board and the church also. I thought it was later.

CHAIRMAN MOORE: The coordinated review having been concluded on September 16th. The public hearing would have still been open at that point. I think we kept everything open. The motion was taken to adopt the coordinated review on September 19th. So I believe the public hearing would have been
concluded after that point. So that information would have been available for review.

MR. TASKUR: It seems to me that since the Board does not have a recollection to tell when they closed the public hearing, they ought to review that record and see when that occurred and what information has been received since then. Not just financially. Other information as well. When it has been received so that you could put it in. That would be prudent.

CHAIRMAN MOORE: I appreciate your comment and your opinion. At any hearing, the discussion that is held at the meeting might stimulate the public eye in the field that they need to discuss something further.

MR. TASKUR: That is not what I am talking about. I am talking about new information, data and some forth. The public has not
had an opportunity to comment on.

   CHAIRMAN MOORE: If you can

just hold off for a moment here.

   MEMBER SALADINO: I remember

receiving the financial statement

from the church and I honestly don't

remember if we got it before the

public hearing, after or during the

public hearing. I do remember asking

the attorney if this information was

open to the public and he told me

that it was. It was FOIL'able.

   MR. TASKUR: John, timing is

the issue.

   MEMBER SALADINO: I

understand that.

   CHAIRMAN MOORE: You are

asking a question that we are not

able to answer it at this time. Our

reasonable calculations is that the

hearing was open beyond the time that

the financial report was available.

   I think that is pretty obvious.

Whether or not any incidental

discussions came up after our
deliberations that would create any
one from the public to create enough
discussion to reopen the public
hearing, I think that is up to the
discretion of the Board.

MR. TASKUR: Well, let me --

CHAIRMAN MOORE: Have you
have -- we are not having a public
hearing at this time. If you have
avenues as we proceed with our
activities to file a protest, if you
wish --

MR. TASKUR: Do you really
want to suggest that?

CHAIRMAN MOORE: I am not
suggesting. I am saying that any
member of the public can file an
appeal or action of the Board based
on whatever reasons that they have
and you are speaking to something
that you consider to be significant.
It has not come up before and I am
not sure if we should once again
delay this proceeding because of your
individual stance.
MR. TASKUR: Well, I am going to ask that you delay it for another two, three or four minutes while I speak to this situation while you don't go jumping off the edge of the dock without knowing the answer to the question. The question is very simple. Was there new information -- material information received in the record after the close of the public hearing? I don't think Mr. Prokop should permit you to take that position but he is your attorney.

CHAIRMAN MOORE: Well --

MR. TASKUR: -- can't stop interrupting me.

CHAIRMAN MOORE: This is not a public hearing and you have brought up an issue. Mr. Pallas is attempting to answer your question and you are continuing to maintain your position in talking. So please sit down and listen for a minute.

MR. PALLAS: I did note from
the minutes of the meeting of October 21st indicates that the hearing was closed on that date.

CHAIRMAN MOORE: This was sent in on August 30th and it was discussed at the September hearing and a month later it was closed. So the public comment was open during that time.

MR. TASKUR: And no further financial information was received after October 31st --

MR. PALLAS: October 21st.

MR. TASKUR: October 21st.

No --

CHAIRMAN MOORE: The only thing that we received was a question that came up after our meeting last month, which was a news item regarding the sharing of their facility with the First Universalist Church. And they have indicated that there is a $150.00 donation per Sunday. Once a week.

MS. MILLER: Per Sunday.
It’s only on a two month basis right now.

CHAIRMAN MOORE: That is the only information. We were satisfied with the information that has been provided, which was financial. It is not significant.

MR. PROKOP: My only other comment would be, in any decision that you make that you just express there -- in this situation due to the age of the property and the -- age, the configuration and other circumstances, that it’s a unique property. And the -- you can't say that it’s not a precedence but I would say that there is unique circumstances involving this property.

CHAIRMAN MOORE: In the description of a motion?

MR. PROKOP: Yes.

CHAIRMAN MOORE: Members of the Board, what is your opinion on what we should do in once again
1 delaying the process?
2                  MEMBER GORDON:  I think it’s
3 time to move forward. We did have
4 significant discussion in the October
5 meeting about a clarification. It
6 wasn't new information. It was
7 clarification of the gentleman that
8 had spoke. It was really the details
9 of what we had received in late
10 August and that was certainly
11 available to the public and still is.
12 It’s in the minutes.
13                  CHAIRMAN MOORE:  The minutes
14 are published on the website when
15 they become available. So would the
16 members of the Board be prepared to
17 move forward with a decision?
18                  MEMBER SALADINO:  Yes.
19                  CHAIRMAN MOORE:  Any
20 objections to doing so at this point?
21                  (No Response.)
22                  CHAIRMAN MOORE:  So I will
23 put together a motion. And first of
24 all, the motion is to approve a use
25 variance which would allow conversion
of a single family house to a two family house and permit the rental of the two apartments by the Holy Trinity Church on an open market basis. This recognizes that this being on the church property, with due deference to religious activities would be unique and not shared by the district overall. And the stipulations that we would apply to such an approval would be that the use variance shall remain in effect only while the Holy Trinity Church is the owner and in possession of such property. The use variance shall terminate if there is any change in the ownership or possession or control of the subject property or any portion thereof. No. 2, ownership and control of the two family residence shall remain in the Holy Trinity Church or its diocese administration.

(Whereupon, the alarms sounded.)
CHAIRMAN MOORE: No. 3, the building that is subject to the use variance shall remain on the same parcel as the Holy Trinity Church and shall be no subdivision of that parcel. In the event of subdivision of the parcel, the use variance to us the building for R2use shall terminate. The R2 use of the building shall be consistent with the plans dated -- date to be entered. That were filed with the Village of Greenport Building Department. Any change of the subject building must first be approved by the Zoning Board of Appeals. No. 5, the use of the subject building must otherwise be in accordance with the Village of Greenport Zoning Code and both the New York State. And No. 6, and last, the rental of the apartments in the subject building shall be for periods not less than 30 days and in violation of this provision, shall
terminate the use variance. With those stipulations in mind, I would make that motion. Do I have a second?

MEMBER SALADINO: Second.

CHAIRMAN MOORE: All in favor? And I will do a roll call?

Mr. Corwin?

MEMBER CORWIN: No.

CHAIRMAN MOORE: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRMAN MOORE: Ms. Neff?

MEMBER NEFF: Yes.

CHAIRMAN MOORE: Mr. Saladino?

MEMBER SALADINO: No.

CHAIRMAN MOORE: He indicates no. And I vote, yes. It’s a 3-2 split vote. The motion carries and the variance is granted. Thank you all. After a long period, we wish you well. I will as soon as possible send an abbreviated provision to the Village Clerk that constitutes our voting and what the
voting was and what our resolution was. Then subsequently we will have a findings and determination document executed.

Item No. 2 is a motion to accept an application for an area variance, schedule a site visit and public hearing for Robert Moore, 139 Fifth Street; SCTM #1001-7-4-09. The property is located in the R2 District. The applicant seeks a building permit for a deck and fence which have already been constructed.

Section 150-13B(2) of the Village of Greenport Code requires that on a corner lot, front yards are required on both street frontages. One yard other than the front yard shall be deemed to be a rear yard and the other or others to be side yards. The existing 6’ high fence is located within the required front yard setback along the south and west property lines. The deck is 9.5 feet from the south property line.
requiring a 20.5 foot front yard area variance.

Section 150-12A of the Village of Greenport code requires that one-family homes in the R2 District have a maximum permitted lot coverage of 30%. The 330 square foot deck increases the total building lot coverage to 35.20% requiring a lot coverage variance of 5.20%, 336 square feet. The existing lot coverage if 30.25%, which includes the existing house and garage. We won't be discussing this obviously tonight. I can only indicate that this has come up not spontaneously but for some reason other than citation and Mr. Uellendahl can perhaps indicate why a variance appeal has been filed. Otherwise this would not be before the Board. Can you indicate why this is coming up for an area variance appeal?

MR. UELLENDahl: Well, the owners built the deck without a
permit and they replaced the fence.

I did some research and there was a picture of the west side and it actually shows aerial photos of Greenport and this particular site where the fence has always been in existence. It was curved along those lines. And in the last ten years it appears to have been reconstructed because it was in disrepair. So there are three variances that we will have to ask for. It’s for the coverage. Already the house and the garage, which predates zoning. The house was actually moved to that lot. And the garage was used, I believe from what I heard, when there was a factory there. This has to do with the coastal issues. So here I am. I am trying to help the owners coverage. It’s more than the percentage.

CHAIRMAN MOORE: I just was curious because I know that things get slow in the winter and I was
wondering if you were trying to keep us busy in the winter months. It’s a noble thing to ask for a variance when no is calling you. I think that is good and we have enough information.

MR. UELLENDahl: Good.

MEMBER CORWIN: The more important question, is this in preparation of a sale of the house?

MR. UELLENDahl: Well, I think the Moore family -- they are not in a rush. This is something that you can ask them for the public viewing. I don’t know. It’s very likely that the house would be sold.

MEMBER GORDON: Do you know if the previous fence was also six feet?

MR. UELLENDahl: Yes, it was.

MEMBER GORDON: And this is a question for Mr. Prokop. Does the reconstruction of the fence flight -- would predate the zoning and
therefore -- I think if the fence were built absolutely new it would not be in compliance. It is -- it’s a statutory front yard. It goes around the corner. A gentle corner but it does go around the corner. I would assume that if it was a new fence it would not be in compliance.

I was wondering if it sort of gets grandfathered in for a replacement of an old fence?

MR. PROKOP: I don't know what the other fence was. I don't know what is interpreted as reconstruction of a fence. I am not sure. What happened with the fence?

MR. UELLENDAHL: The existing fence was replaced because the old one was falling down.

MR. PROKOP: I think the reconstruction of the fence with a new one probably takes down the grandfathering. Also the other thing is, corners that usually associated -- the setbacks from corners are
usually associated with safety
factors. And when there is a safety
tfactor involved there is no
grandfathering. From what I
understand.

CHAIRMAN MOORE: We can
actually deal with this when we have
the public hearing and testimony.
Fences do generally require building
permits. It will be an interesting
case to discuss. Perhaps some
historical information about when the
first fence was built would be
helpful.

MR. UELLENDahl: Yes. I
asked the owners to supply the Board
with old photos. So I will make that
available.

MR. PROKOP: When you asked
before if there was a sale pending.
Is this a house that is going to be
changed from R1 to R2?

MR. UELLENDahl: No.

CHAIRMAN MOORE: And it’s
not in the Historic District?
MR. UELLENDAH: No, it is not.

CHAIRMAN MOORE: I would entertain a motion to accept the application as submitted?

MEMBER CORWIN: Well, I have a question prior to that.

CHAIRMAN MOORE: Okay.

MEMBER CORWIN: Submitted with the application a short environmental assessment form. And if nothing else on that form, one or two questions about it.

MEMBER NEFF: Are we on a certain page?

MEMBER CORWIN: The questions on the short form. The pages is not numbered. I'm sorry, Page 2 of 4.

CHAIRMAN MOORE: And you are referencing Page 2?

MEMBER CORWIN: Yes. It says is the site proposed action in or does it adjoin a state listed critical environmental error -- area.
It is answered "yes" and I believe the answer should be "no," there.

CHAIRMAN MOORE: Okay.

MEMBER CORWIN: And then if you go down to 9 and 10, it really doesn't apply but it doesn't matter. Then if you go down to 16. Is the project site located in the 100 year flood plain? It says, no, but it is in fact it is located in Zone AE -- Zone X which would be the 100 year flood plain. So there is some errors in the short environmental assessment form. I would ask the attorney if these should be corrected or does the short environmental assessment count or not?

MR. PROKOP: It does count and needs to be corrected and -- I would have it corrected -- make sure that it’s filed 7 days before the hearing date.

CHAIRMAN MOORE:

Mr. Uellendahl, you filled this out?

MR. UELLENDAHL: Yes, I did
to the best of my knowledge. What
Mr. Corwin just said, I cannot follow
and I did my research. I have this
here.

CHAIRMAN MOORE: Would you
review the short form.

MEMBER CORWIN: I went over
it very carefully on the FEMA maps.

MR. UELLENDAH: Is this the
2009?

MEMBER CORWIN: It’s the
most recent.

MR. UELLENDAH: This is the
most recent. You tell me how to
proceed with something like this?

CHAIRMAN MOORE: Would you
just review the form and just as the
attorney stated, just make sure it’s
revised to your satisfaction seven
days before the next meeting?

MR. UELLENDAH: I will.

CHAIRMAN MOORE: If there is
no other discussions from the Board,
I would entertain a motion for this
consideration --
MEMBER NEFF: So moved.

CHAIRMAN MOORE: Second?

MEMBER SALADINO: Second.

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

And while we are at it, the next meeting would be January 20th and 4:30 at the site.

Item No. 3 is motion to accept the ZBA minutes from November 18, 2015. So moved.

MEMBER GORDON: Second.

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

And a motion to approve the
ZBA minutes from October 21, 2015.

So moved. Second please?

MEMBER GORDON: Second.

CHAIRMAN MOORE: All in favor?

MEMBER SALADINO: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN MOORE: Aye.

Opposed?

MEMBER CORWIN: I abstain.

CHAIRMAN MOORE: Okay.

Mr. Corwin is against.

The motion would be to schedule the next ZBA meeting for January 20, 2016. That is agreeable to everybody? And I have one additional comment to make. As last year, I was away a number of months from January and I will be doing that again next year as it turns out. In my absence, the Board will have to appoint an acting chairman for each meeting. I would suggest the Board members consider rotating and
managing the meetings for possible future times. If not, personally you feel you don't want to do that, we will ask someone else to take the helm. Also over the next couple of months, there may be some large scale and some contentious questions that come before the Zoning Board of Appeals for variances. So I am hoping that if we can make the necessary arrangements, I might be able to participate electronically. This is allowed by Village law and we are working out the technical details. So anyone present at the meeting would have to assume the role of chair and I would participate as just a member. And I would be able to vote providing that I have all materials.

MEMBER GORDON: Could you chair?

CHAIRMAN MOORE: I would not chair remotely. We are hoping to work out something like Skype.
MEMBER NEFF: I am a member of a Board that does allow via Skype. It’s a phone line.

CHAIRMAN MOORE: Do you have a video link?

MEMBER NEFF: No.

CHAIRMAN MOORE: We are hoping for a video link. The only thing is when the meeting is noticed, the other site be noticed and be available for participation of the public.

MEMBER GORDON: I am not going to be here for the second meeting. I will be here for everything else.

CHAIRMAN MOORE: There will be at least three here. So starting in January, I will be absence for a couple of months. I have always mentioned that any critical decisions of the Board, I think that always three members is not sufficient to give a proper vote because that gives a member a veto and garner enough
support for a passage of a variance.

MEMBER CORWIN: I object. I want a chairman to appoint tonight for the full period while you're gone. And I object to video Skype or whatever you call it. I think people have to be here in this room to vote.

CHAIRMAN MOORE: Well, I will register your objection. You can take it up with the Mayor. I have already discussed it with him and he has approved that absence.

MEMBER CORWIN: How does the Mayor get to approve that? This is the ZBA.

CHAIRMAN MOORE: We can decide amongst ourselves.

MEMBER SALADINO: Can I just ask the reasoning?

MEMBER CORWIN: I don't care for that. To make decisions for the Village of Greenport while in Florida. I don't go for that. No.

CHAIRMAN MOORE: Your objection is noted.
MEMBER CORWIN: If you are not living in Greenport full-time I don't see how you can be apart of the ZBA and make decisions.

CHAIRMAN MOORE: Your objection is noted. So anyway, we have scheduled the next meeting for January 20th. And I will make a motion to adjourn. Can I have a second?

MEMBER NEFF: Perhaps before we motion to adjourn, we appoint a chairperson for the January meeting before we close the meeting.

MEMBER GORDON: Are you volunteering?

MEMBER NEFF: No, I am not.

MEMBER CORWIN: Somebody has to be responsible for the agenda --

CHAIRMAN MOORE: That's a good point. So I would agree with that.

MEMBER GORDON: I nominate Ellen Neff.

CHAIRMAN MOORE: I will ask
for a second on that nomination?

MEMBER SALADINO: I will

second it. Sure.

CHAIRMAN MOORE: All in

favor for Ellen to serve as acting

Chair for the January meeting.

All in favor?

MEMBER SALADINO: Aye.

MEMBER NEFF: Aye.

MEMBER GORDON: Aye.

MEMBER CORWIN: Nay.

CHAIRMAN MOORE: Abstain.

MR. PROKOP: I just wanted
to mention this to the Board. Of
course you are allowed to have a site
visit, but what I encourage the Board
to do is not to have any
deliberations and not have any
discussions at all. Limited -- very
limited discussions with the
applicant or anybody else. In fact
no discussions if at all possible.
It’s really for you to conceptually
visualize the site.

CHAIRMAN MOORE: Yes.
MEMBER CORWIN: We also note by 4:30 in January, it starts to get dark.

MEMBER NEFF: Actually it will be lighter on that day than it is today. We will turn the corner in a few days.

MEMBER SALADINO: 4:00 is good.

CHAIRMAN MOORE: Okay. Is that better for the Board?

MEMBER NEFF: That’s fine. I just ask that it be clearly marked. Because it can be covered by snow.

CHAIRMAN MOORE: Yes. Motion to adjourn.

MEMBER GORDON: Second.

CHAIRMAN MOORE: All in favor?

MEMBER CORWIN: Aye.

MEMBER SALADINO: Aye.
MEMBER GORDON: Aye.
MEMBER NEFF: Aye.
CHAIRMAN MOORE: Aye.

(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,

December 29, 2015.

Jessica DiLallo

(Jessica DiLallo)