ZONING BOARD OF APPEALS 12-19-17

Village of Greenport

County of Suffolk State of New York

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Zoning Board

Regular Meeting

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Third Street Firehouse
Greenport, New York

December 19, 2017
5:00 p.m.

Before:

Chairman Saladino

Member Corwin

Member Gordon

Member Neff

Member Tasker

Village Attorney

Joseph W. Prokop
Item No. 1

Motion to accept the minutes of the November 21, 2017 ZBA meeting.

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Item No. 2

Motion to approve the minutes of the October 17, 2017 ZBA meeting.

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Item No. 3

Motion to schedule the next ZBA meeting for January 16, 2018 at 6:00 p.m. at the Third Street Fire Station, Greenport, New York 11944.

PAGE: 7 - 8, 128 - 132

Item No. 4

Discussion and possible motion on the recommendations to be directed to the Planning Board of the Village of Greenport
Item No. 5

Motion to accept an application, schedule a public hearing, and order a site visit for the application of Alexander and Isabel Iwachiw, represented by Michael Iwachiw. The application is for an area variance for a property located at 177 Sterling Street, Greenport, NY 11944. This property is located in the Historic District, and the application is schedule to come before the Historic Preservation Commission of the Village of Greenport on January 8, 2018.
Discussion and possible motion of the variance application of the Miller Family 2012 Irrevocable Trust for the property located at 424 Fourth Street, Greenport, NY 11944

SCTM# 1001-6.-8-18.1

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Item No. 7

Motion to Adjourn.

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CHAIRMAN SALADINO: Folks, this is the Village of Greenport Zoning Board of Appeals Regular Meeting. Item number one, motion to accept minutes of the November 21, 2017 ZBA meeting. So moved.

MEMBER NEFF: Second.

MEMBER GORDON: I have something I wanted to point out about the meeting. First of all, I want to thank -- I think we just lost, is it Stephanie? I want to compliment her and your organization for doing the minutes because it must have been much harder to do them from the transcript than to do it from our real performance here.

MEMBER NEFF: The transcription of it.

MEMBER GORDON: So thank you very much. So there are -- they are little nit picky things, but one of them is important
because it is a mistake concerning a vote.

On page 136 there is a word, "colloquy", which is applied to my colleague, Ellen Neff. She is not a colloquy. Although she may engage in one. She is a colleague. So that should be edited.

And on page 158 a mistake that some students I used to have made all the time. The word used was, "statue". And it should be statute. It is about a law.

On page 165 the word, "nose", is in the minutes rather than noise. Which was a concern about the landmark application.

On page 178, there is a peculiar thing. It says, "Andy nay". There is no Andy on the board voting yea or nay. So I just -- I know these are little silly things but I would just like to get it right.

As I said, I am so glad that the task of these hundreds of pages was done so well. I want just want it to be perfect.
That is my comment.

CHAIRMAN SALADINO: Are we going to accept the minutes with the corrections?

MEMBER TASKER: So moved.

CHAIRMAN SALADINO: All in favor?

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: Opposed?

(No response.)

CHAIRMAN SALADINO: Item number two: Motion to the approve the minutes of the October 17, 2017 ZBA meeting.

So moved.

MEMBER GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: Any abstentions?

MEMBER CORWIN: Abstain.

CHAIRMAN SALADINO: Four yes and one
abstention.

Item number three: Motion to schedule the next ZBA meeting for January 16, 2018 --

Do you want to have this discussion now or do you want to schedule the meeting?

MEMBER CORWIN: Let's start with the motion for now.

CHAIRMAN SALADINO: Motion to schedule the next ZBA meeting on January 16, 2018 at 6:00 p.m. at the Third Street Fire Station, Greenport, New York 11944.

So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER TASKER: Aye.

MEMBER NEFF: Aye.

MEMBER GORDON: Aye.

CHAIRMAN SALADINO: Item number four --

MEMBER NEFF: Mr. Chairman, do we have a site visit for that, prior to that
meeting? We haven't scheduled one but we have received an application.

CHAIRMAN SALADINO: I am kind of thinking maybe we will accept the application before we talk about that.

MEMBER NEFF: Okay. Thank you.

CHAIRMAN SALADINO: Item number four is discussion and possible motion on the recommendation to be directed to the Planning Board of the Village of Greenport regarding the application of the Landmark Group, for the property located at 222 Manor Place. Suffolk County Tax Map number 1001-2-2-41.1

Before I ask for a second is there any discussion on this?

MEMBER TASKER: I would just like to note, if I may, as I have throughout this application, in consideration of this application that I am not participating in any discussion or decisions related to it.

CHAIRMAN SALADINO: So Arthur is going to recuse himself.
MEMBER GORDON: He already did. He already did.

MEMBER TASKER: Yes, but I am not going to leave the table. I am just going to sit here mute.

CHAIRMAN SALADINO: Okay.

I'm not entirely in favor of this. I think -- I think the Planning Board has a mandate. They either do know it or should know it. They have our minutes, which was suggested to them that they read them. I am uncomfortable sending a letter suggesting how the Planning Board or what the Planning Board should take up at their meeting. So --

MEMBER GORDON: Could you maybe read the proposed -- shouldn't the public know what has been proposed?

CHAIRMAN SALADINO: Sure.

This is to the Planning Board of the Village of Greenport from the Zoning Board of the Village of Greenport dated December 19, 2017 regarding the application...
of Landmark Group for the property located
at 222 Manor Place, Greenport, New York.

We, the undersigned, have approved
the area variance application of the above
mentioned application. However, we want to
express our concerns about matters that
directly affect the neighborhood,
particularly the following: Lighting,
noise and the hours of operation, vehicular
consideration. Particularly the driveway
located on the west side of the property.

We ask that you, the Planning
Board, address these issues that are under
your purview and related to the impact of
-- on the neighborhood.

I think it is -- I think we can --
I am uncomfortable sending this to the
Planning Board as a Board. I have no
problem standing at the podium and
expressing my opinion about this
application, as I have done in the past, to
the Planning Board. But as a Board I'm
uncomfortable. But again I am only one
vote.

Anyone else?

MEMBER GORDON: If you stand at the podium and make comments to the Planning Board -- I mean is it absolutely clear that it wouldn't -- that those matters wouldn't come back to us? Is there any questions in which case you might have a conflict of interest? I know you would not want that.

CHAIRMAN SALADINO: I am of the opinion that none of these will come back to us. I am of the opinion that these are within the purview of the Planning Board. That -- actually we addressed them in our meeting. We just didn't vote on any of them because they weren't in front of us. We deferred to the Planning Board. None of them require a variance. So I don't see -- I don't see how it would come back to us. That's just my opinion. Anyone else?

MEMBER CORWIN: I've already voted no. I've already sent letters to the Planning Board with concerns I had as a
private citizen. One of them being the lighting. Nobody counted up the lights. Let me tell you, there is a lot of lights on those plans that were never shown. I pointed that out to the Planning Board as a private citizen.

CHAIRMAN SALADINO: Just so you and I are on the same page, you said you voted no?

MEMBER CORWIN: Originally I voted no when we talked about this last month.

MEMBER NEFF: Right.

CHAIRMAN SALADINO: Well this is a new request in front of us.

Ellen?

MEMBER NEFF: When you exchanged the expression, "come back to us", I didn't quite understand in what way you were saying.

CHAIRMAN SALADINO: Some of the -- do you --

MEMBER GORDON: No. Go ahead.

CHAIRMAN SALADINO: That some of
the concerns that are listed here Dinni
perhaps felt that the Planning Board might
see the need for a variance.

MEMBER NEFF: Oh, okay.

CHAIRMAN SALADINO: If a member of
the Zoning Board comments on them as a
private citizen it would be in appropriate
for them to participate if the variance
came from us. I think that -- I think that
maybe question as opposed to --

MEMBER NEFF: Well, I certainly
hope that questions that come before the
Planning Board that have been dealt with in
the near time frame by the ZBA one would
hope they reviewed the minutes. But having
reviewed the minutes of the last days of
our last meeting I know what a long time
that takes. I think I might be more after
hearing Mr. Corwin's point of view, to
express any concerns to the Planning Board
directly as a member of the public, I think
that appeals to me. Do we ever make a
point of requesting that the Planning Board
review the minutes of our meeting related
to an application before them? Do we ever
do that?

CHAIRMAN SALADINO: I think when
the subject came up at that hearing or with
that discussion I believe -- and we can
check the minutes and check the tape if we
want -- that I wasn't in favor of this. I
voted to put the resolution in front of us
because we should -- every member should
have the opportunity to vote, but I thought
I had suggested that the Planning Board, if
they needed any information to read our
minutes. And then if they still have
questions perhaps they should reach out to
us with their questions.

I think this is -- I think for us
to send this to the Planning Board to
suggest to them that they don't know what
their duties and responsibilities are or
what their mandate is -- the word I want to
use is insulting but I don't want to do
that. I think I'm going to -- if we still
want to discuss we will keep it going. If not, I am going to ask for a second. Anybody? No? Is there a second?

MEMBER GORDON: Would you repeat the motion, please?

CHAIRMAN SALADINO: Sure. Discussion and possible motion on the recommendations to be directed to the Planning Board of the Village of Greenport regarding the application for the Landmark Group for the property located at 222 Manor Place. Suffolk County Tax Map 1001-2-2-41-1.

So moved?

MEMBER GORDON: Is the motion to make these recommendations?

CHAIRMAN SALADINO: Yes. Motion on the recommendation to be directed to the Planning Board.

Are we digesting now? Are we debating on whether to second this or not?

Okay then. I am not hearing a second. We are going to move on.
Item number five: Motion to accept an application, schedule a public hearing, and order a site visit for the application of Alexander and Isabel Iwachiw, represented by Michael Iwachiw. The application is for an area variance for a property located at 177 Sterling Street, Greenport, New York 11944. This property is located in the Historic District and the application is scheduled to come before the Historic Preservation Commission of the Village of Greenport on January 8, 2018. Suffolk County Tax Map 1001-3-4-15.

Is a representative for the application? Would you like to tell us about the application?

MR. IWACHIW: Do I use this?

MEMBER CORWIN: Yes. And please spell your name for the record.

MR. IWACHIW: My name is Michael Iwachiw, I-W-A-C-H-I-W.

It is essentially what we're -- we have a very small kitchen area that doesn't
allow us to eat in the kitchen. We are simply asking for a variance because we want to put an extension on the back of the house which is the same size of the deck, replacing the deck.

In order to -- because the deck itself is too close to the neighbor we are asking for a four foot variance which would make it legal.

CHAIRMAN SALADINO: Was the deck -- was the deck ever permitted?

MR. IWACHIWI: Going back to the early '80s.

CHAIRMAN SALADINO: So the deck is legal?

MR. IWACHIWI: I don't think it was permitted, no.

MEMBER NEFF: There is a deck?

MR. IWACHIWI: There is a current deck there.

MEMBER NEFF: Is there a CO for the deck?

MR. IWACHIWI: I don't have a CO for
the deck.

CHAIRMAN SALADINO: So you're asking to take down this deck and build this extension.

MR. IWACHIW: That is correct.

MEMBER NEFF: Are you saying it may or may not have a CO or for sure there is not?

MR. IWACHIW: I don't think I have a CO.

MEMBER GORDON: It says on the notice of this approval an existing non-conforming house.

MR. IWACHIW: House?

MEMBER GORDON: An addition to an existing non-conforming house. Can we assume that that non-conforming status was granted to the house including the deck?

CHAIRMAN SALADINO: I am not prepared to accept that.

MEMBER NEFF: No.

CHAIRMAN SALADINO: I am not prepared to do that. The house is --
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MEMBER GORDON: I thought he might have a CO for the house which would indicate the deck.

CHAIRMAN SALADINO: Do you have a CO for the house?

MR. IWACHIW: I don't think so. I don't -- I don't -- I've never seen a CO for the house itself.

MEMBER CORWIN: I think that is one thing you have is do as your first order of business is get some sort of CO, whatever you have to do. They will probably give you a pre-CO. You would need that before we can do the work we have to do.

CHAIRMAN SALADINO: We have also -- just -- you are not the owner of the house?

MR. IWACHIW: Well, the house is in my children's name at this point.

CHAIRMAN SALADINO: So you are the owner of the house?

MR. IWACHIW: I guess I am.

MEMBER CORWIN: No, he is not.

MEMBER NEFF: You have been the
owner?

MR. IWACHIW: I have been. Absolutely.

MEMBER NEFF: May I ask, how long have you owned the house, approximately?

MR. IWACHIW: Oh, since '81

MR. PROKOP: Is it in your name or is it in your children's name?

MR. IWACHIW: It was -- the title was changed about two years ago to my son and my daughter.

MR. PROKOP: So you are not the owner of the house?

MR. IWACHIW: Technically at this point I'm not.

MEMBER TASKER: But you have owned it since '81, you said?

MR. IWACHIW: Correct.

CHAIRMAN SALADINO: Do you have something from your children, aside from this, that says --

MR. IWACHIW: There is a letter in the application.
CHAIRMAN SALADINO: It says the owners of the house -- approve the building of an extension to the back of the house.

MEMBER TASKER: There is an authorization for him to represent the owners as part of the package that we have. Are we concerned about his authority to represent them?

CHAIRMAN SALADINO: I'm concerned about this letter.

MEMBER GORDON: Here is the authorization. It doesn't seem to be notarized but it is here.

MEMBER CORWIN: The application is notarized.

CHAIRMAN SALADINO: So we have to deal with an as built deck and an application to build an extension.

MEMBER GORDON: The application doesn't take into account the other variance here is based on the requirement of the code that there is an aggregate side yard set back. So it requires an 11.3
combined side yard variance. So it isn't just the 3.9 feet side yard area variance.

MR. IWACHIW: So I have to address the other variance as well -- the other --

MEMBER GORDON: Well that is the usual. Has the deck been on the house since you bought it?

MR. IWACHIW: Yes.

MEMBER NEFF: And it has footings and all those kinds of things?

MR. IWACHIW: Yes, it does.

MEMBER NEFF: Okay.

So it is an addition to the house in the same configuration as the existing deck?

MR. IWACHIW: Right.

MEMBER NEFF: And the building is approximately 12X20?

MR. IWACHIW: Correct.

MEMBER NEFF: Approximately. But there aren't plans. There is a sketch of what it would look like from the rear and one side, but there aren't plans for the
building.

MR. IWACHIW: I think -- you mean the actual -- from the designer?

MEMBER NEFF: Yes. showing details, lots of details.

MR. IWACHIW: I have that. Yes.

CHAIRMAN SALADINO: Are we going to ask for a CO?

MEMBER GORDON: Yes.

MEMBER CORWIN: I think we have to.

MR. PROKOP: Yes.

MR. CORWIN: We could go ahead and schedule a public hearing for someone that doesn't have a CO. So I think we should say you got to go back and do a little more homework and get the CO.

CHAIRMAN SALADINO: There is a little bit more information that we kind of feel we need here. I would like to look -- before we accept the application I would like to look at a set of plans. We would like to know exactly if the deck is permanent or not.
MEMBER NEFF: Basically it becomes the foundation of a pretty substantial addition.

CHAIRMAN SALADINO: That is the other thing. There is no information about how you are going to deal with this except replace deck with --

MEMBER NEFF: With the same footprint. That is what it tells us.

CHAIRMAN SALADINO: That is an area thing.

MEMBER NEFF: Right.

CHAIRMAN SALADINO: That is not construction.

MEMBER NEFF: Right. It is not construction.

CHAIRMAN SALADINO: Do you -- I'm sorry.

MEMBER GORDON: We do have these plans.

MEMBER CORWIN: That is the partial plan. I think it is not going to be easy to do this in a month. If the building
inspector is not going to -- it is going to take research to find.

CHAIRMAN SALADINO: I don't think that is up to us to -- what?

MR. TASKER: If it is strictly a matter of asking to approve a CO, make the hearing conditional on providing the CO in sufficient time before the meeting.

CHAIRMAN SALADINO: I am not comfortable scheduling a public hearing until we have that information.

MEMBER NEFF: Just ask for the further information like plans and the CO. We really need a survey. Well, we have a survey. The survey was done -- thank you.

CHAIRMAN SALADINO: August 3rd. What is the pleasure of the Board? Do you want accept this on the condition he provides additional information, schedule a public hearing, schedule a site visit. I'm uncomfortable doing that.

MR. TASKER: Can I ask the applicant, when do you have in mind to do
the work?

MR. IWACHIW: Excuse me?

MEMBER TASKER: When do you have in mind to do the work?

MR. IWACHIW: As soon as I can.

MR. TASKER: So you would start this winter presumably?

MR. IWACHIW: Yeah. Yeah.

MEMBER GORDON: So if we waited and looked at the plans in January and did the public hearing in February you wouldn't be doing it in the coldest part of the winter but you could start presumably in the very early spring.

CHAIRMAN SALADINO: I don't -- I don't think that is for me to decide when he does the work. I think that is for him to decide. I think what should have been here is more information. There is a good chance -- somebody raised the question because we have no building inspector some of this information might be hard to get. We would have to cancel the public hearing
that is scheduled. I just think it is
easier to get the information and then --
and then --

MEMBER GORDON: In January.

CHAIRMAN SALADINO: And then
schedule the public hearing and the site
visit.

MEMBER CORWIN: Yes.

MEMBER NEFF: Yes. A more complete
application. To request of the application
that we have a little more detail,
including COs and --

CHAIRMAN SALADINO: That is my
feeling. Let me ask the attorney. What do
you think, Joe?

MR. PROKOP: Well based on what we
have heard -- so I think the recommendation
would be a motion to table this until the
January meeting. I don't think you can
proceed without the full legal background
on the house.

CHAIRMAN SALADINO: So what are we
requesting from him?
MEMBER TASKER: Let's make sure it is specific so that --

MEMBER CORWIN: We want a CO or a pre-CO, we want an application that addresses the side yard variance of 25 feet on both sides. And we want some kind of clarity on the deck, when it was built and by whom. And if it was prior to the gentleman's purchase, well he should have run the CO when he bought the house. There may be some fine involved in building the deck.

CHAIRMAN SALADINO: Anybody else? Is it kind of clear to you?

MR. IWACHIW: What?

CHAIRMAN SALADINO: Is it kind of clear to you what we are going to need next month?

Okay. I am going to make a motion to table this application until next month.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.
MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

CHAIRMAN SALADINO: Any opposed?

MEMBER TASKER: Abstain.

CHAIRMAN SALADINO: One abstention.

Four yes. One abstention. Item number six is the discussion and possible motion on the variance application of the Miller Family 2012 Irrevocable Trust for the property located at 424 Fourth Street, Greenport, New York 11944. Suffolk County Tax Map 1001-6-8-18-1.

At last month's meeting we closed the public hearing but we kept the record open for written comments. We received some written comment from the applicant's attorney. I'm going to ask her if she wants me to read or if she would like to read it or not have it read into the record but we are going to have to address it.

MS. MOORE: It is however you prefer.

CHAIRMAN SALADINO: No. It is your
comment. It is however you prefer.

MS. MOORE: Well, usually --

CHAIRMAN SALADINO: Could you come to the podium.

MS. MOORE: I would be happy to read it into the record. Usually a written comment is made part of your record. I assume you have all had an opportunity to read it. So it doesn't necessarily need to be read out loud, but that is fine.

CHAIRMAN SALADINO: It is not what I prefer. It is what you prefer. Normally that is how we do handle written comments. But this goes a little bit beyond that.

MS. MOORE: I'm sorry. Patricia Moore.

CHAIRMAN SALADINO: So --

MEMBER CORWIN: It would be nice to read it so the folks at home watching this.

MS. MOORE: Okay. I will read it out loud.

CHAIRMAN SALADINO: Well, let me ask the Board. Does the Board have any
objection? No.

MS. MOORE: That's fine. My letter was sent and it was prior to the close of your public comment period.

So I started by saying, Dear Chairman Saladino, Members of the Board, pursuant to the Board's resolution to accept written comment we wish to submit the following comments after the public hearing:

The appeal to the Board is uncomplicated and straight forward. It is to allow the approved B&B to continue as it was approved in 2001 with the conditional use permit and set site plan approval. The variance is to physically detach the large house from the existing cottage, second dwelling. The cottage was renovated in 2007 pursuant to a building permit, number 2136. The work was completed with six inspections, over $100,000 in costs to improve the cottage. Once the structures are detached then a Certificate of
Occupy for the cottage could be issued and the B&B use will continue as approved in 2001.

First issue, Mr. Arthur Tasker is ineligible to serve as a member of the Greenport Zoning Board of Appeals. Members of the Village Zoning Board of Appeals must be residents of the Village. New York Public Officer's Law, section 3 sets forth the requirements for eligibility of public officers to serve. If it is a local office a resident of the political subdivision or municipal subdivision of the state for which he or she shall be chosen.

During the public hearing on this application Mr. Tasker expressly stated that he and his wife live in Peconic Landing. Video of the public hearing posted on Village of Greenport website, November 21, 2017 at 1:01:17.

The Peconic Landing facility is located outside of the Incorporated Village of Greenport. Accordingly Mr. Tasker is
not eligible to serve as a member of the Village of Greenport Zoning Board of Appeals and he must resign his position. Tasker recusal required. Even if Mr. Tasker has a legal basis to remain on the Board of Appeals he must recuse himself. Applicants before an administrator for quasi judicial body such as the Zoning Board of Appeals are entitled to be heard by a Board that is impartial and without bias against the applicant.

When a board member holds and expresses outright bias against the application the board members must recuse himself or herself from participating in or ruling on the application. See Devane versus Troy Savings Bank, 119 miscellaneous second, 463 465 Supreme Court. Affirmed at the Appellate Division 101634 Third Department 1984.

"The person presiding over the hearing must be impartial." The New York State Attorney General has rendered an
opinion declaring if a neighbor has prejudged on an application we believe this disqualifies the individual from serving on the Planning Board or Zoning Board of Appeals with respect to the application.

Also, if the Planning or Zoning Board member appears to have a conflict of interest based on circumstances or facts surrounding the application he should recuse himself from serving on the Board with respect to the application. That is the opinion of the Attorney General, 1988, 115.

Board Member Tasker is a former neighbor of the Millers. In the course of the public hearing Mr. Tasker's animus to the Millers was obvious. He went so far as to challenger Mrs. Miller's veracity. Again, I site the public hearing record, 156.

During the hearing Mr. Tasker declared that he had owned a two family house which shared a right of way across
the Miller's property. The ill will
between these two former neighbors was
obvious when Mr. Tasker said he sold his
two family property because, "I did not
want to live in that neighborhood."
The enclosed affidavit of Mrs. Miller describes a difficult relationship
the Millers had with Mr. Tasker. The ill
will displayed by Mr. Tasker during the
hearing is evidenced by his continued
animosity toward the Millers and requires
his recusal.
The final straw was his accusation
of my client's veracity. That is stating
that she is dishonest. An applicant is
entitled to a fair and impartial review of
an application. Mr. Tasker's statements to
the Board and the public must be stricken
from the record and he must withdraw from
the review of this application.
Three, area variance, standard of
review. The standards by which the Zoning
Board is to consider an area variance is
set forth New York Village law. The line of questioning pursued by Mr. Tasker bore no relationship to the standards to be considered. Simply stated the proposed physical separation of the building which was built long before the enactment of the Village Zoning Code does not change either the character to the neighborhood or the community.

Further, as was confirmed by the Building Inspector, the State of New York codes division states that this is the only solution to retaining the B&B special use permit granted in 2001. At the hearing Ms. Miller testified that the attached cottage was rented and occupied with a long term tenant in 2001 while the Planning Board reviewed the application and made inspections of the property. We know that they inspected the property because there were comments in the transcripts of the public hearing noting that they had inspected the property prior to the
Neighbors opposition. The neighbor who opposed the expansion of the B&B, which is not the application, had no discernable objection to the cottage. In fact, the Board questioned the neighbor to consider to enable the cottage to be rented independently from the B&B use would result in less traffic and less disturbance to the neighborhood.

Number four is hardship. It is our belief that the existence of the accessory apartment or the cottage was an issue for the Village Planning Board or prior Building Inspector. No one ever considered the main house when an attached cottage/apartment as a two family dwelling. In fact, according to the Building Inspector's testimony, when she issued the building permit for the owner to make alterations and additions to the cottage with the full knowledge of the B&B use in the main house, it did not occur to her.
that the main house and cottage was a two-family dwelling. This issue did not come up until all the construction had been completed, after six building department inspections and final sign off of the Certificate of Occupancy. Thereafter, out of the blue, the Building Inspector determined, after years of struggling with this -- according to the public hearing -- that the structure was a two-family.

This determination has caused significant financial hardship to the owner. The owner had obtained financing for the renovation to the cottage. This issue has caused unnecessary stress to Mr. and Mrs. Miller who are older and impediment to the year round rental to the cottage since 2007.

Finally, without accepting or acknowledging any responsibility for this mess, the Village initiated criminal violations for failing to obtain a Certificate of Occupancy for the cottage.
We ask you to review this application based on the standards of an area variance. The application will be approved and the owner can undertake the costly remediation to continue her three bedroom B&B in her house and separate existing cottage.

We copied Mr. Prokop as well on this letter. In addition, we had attached an affidavit -- which I am looking for because it is not attached to my letter. That was an affidavit on Ms. Miller with respect to her feelings with respect to the hearing and the bias and treatment that she had to endure.

I apologize. I don't seem to have the affidavit here. But I would be happy to read it from any one of your copies.

Thank you.

MEMBER CORWIN: I am not sure you have to, but.

MS. MOORE: What?

MEMBER CORWIN: I am not sure you have to.
MS. MOORE: I am only reading as much as you care to. I was happy to have this be part of the record. If you want the affidavit is in your possession and it is part of the record. It is up to you.

CHAIRMAN SALADINO: I don't need it to be read. If David --

MS. MOORE: Okay.

CHAIRMAN SALADINO: So, where do we start?

I am going to let Arthur address -- if he wants to. I am going to let Arthur address the first portion of this as far as residency and -- I have to be honest with you before I say another word. I am kind of taken aback by this. I think this is -- I mean some of the stuff in here is -- it -- it -- in my mind is not what was said at that public hearing. But before I have my say I am going to let Arthur -- Arthur, did you want to --

MR. TASKER: I thought you wanted to speak first, John, but I will be happy
to respond to a couple of points that were written in the applicant's letter.

First, just to follow on your statement with the letter and comparison to the events of the hearing, I think if you read the letter as you watched the hearing testimony you will see that there is great disparity there. Let me continue.

First, I have resided in Greenport since I was born here. Since about 1980 when I acquired my house on Sandy Beach in the Village of Greenport that has been my legal residence. Since 1982 I have been registered to vote from that address in Greenport by the Suffolk County Board of Elections. And I have voted in Greenport elections thereafter, and of course other elections too. Although I have a winter residence -- not in Vero Beach or West Palm, but Peconic Landing. My domicile and permanent residence was, is and will remain in the Village of Greenport.

Next I want to address the
scurrilous assertion of applicant's attorney that I have pre-judged or biased against or have a conflict of interest with the applicant. I have no interest at all in the applicant so I can't have a conflict of interest with her.

This seems to be a blatant attempt to smear the objectivity of someone who presents uncomfortable facts regarding the application. That sort of thing is happening in the national scene, claims of fake news, other falsehoods. Specifically the applicant stated in her letter that I went so far as to challenge the applicant's veracity.

The job of the ZBA is to make findings to support whether or not to grant a variance to an applicant. And those findings have to be based on information that is both pertinent to the question and reliable. And reliable to me means credible.

According to the general counsel of
the New York State Department of State in a legal memorandum entitled, "Role of Findings in Local Government Decisions." I would like to give that to the stenographer to be included in the record, please. I am going to site from parts of it.

Findings of a Board memorializes the process the Board undertakes when it makes a decision. It first must collect the evidence found in the record. Then appraise the evidence by assigning it appropriate credibility. When reviewing a decision of the Board, courts will limit their review to, ascertaining whether the determination has the rational basis and is supported by substantial evidence. Making findings necessarily requires the Zoning Board to set forth in its determination the evidence it relied upon when reaching its conclusions.

As a sideline, whether or not the evidence it relied on is credible.

The Board must discern however
truly factual information from mere general sentiment. First hand observations of neighbors incorporated into the record are distinguishable from conclusory or general observations and may be considered by a Board in its discretion.

Similarly, personal observations and knowledge of Board members may provide a factual basis for a decision. So long as these observations and knowledge are entered in the record.

The General Counsel's memo concluded the courts will defer to the determination of an administrative body relating to the credibility of a witness saying, "the agencies assessment of the credibility of witnesses, inferences to be drawn from the evidence and findings of fact are conclusive." That means they are not reviewable.

During the course of the hearing the Board was trying to ascertain the state of use of the building. It had many
dimensions. And while the applicant's attorney seems to think it went far afield, there is a lot of uncertainty about that building as came up during the course of the hearing. Here the applicant made extensive statements about her use of the property as her residence, as a B&B, as a building with two separate living quarters, a two-family house, a full-time rental of a dwelling. And during the course of the applicants statements members of the Board, including myself and others had occasions to raise questions about the specifics of her statements, about those uses, their history, the frequency of occupation, the nature of the premises and the like because the applicant's statements or answers or her attorney's statements or answers raised questions that engendered the following comments as reported in the transcript of the public hearing.

I am going to read first from page 50 of the transcript.
CHAIRMAN SALADINO: So there has been no use in that cottage for the last ten years?"

MRS. MOORE: Not the applicant. I want to say minimal, very minimal. She is testifying to facts as to which she has no personal knowledge.

"MR. TASKER: What is minimal?

MRS. MILLER: Empty in the winter (inaudible) summer.

MR. TASKER: Occasional use?

MRS. MILLER: (Inaudible) been able to really advertise to --

ATTORNEY PROKOP: Can we have her sworn?"

Page 66. I think this is Mrs. Moore testifying or speaking.

"Because of the fact it was suddenly redefined as a two-family when it has always been a single family with an accessory cottage.
MR. TASKER: Suddenly redefined?

MRS. MOORE: It was redefined.

MR. TASKER: Suddenly?

MRS. MOORE: It was. Nobody ever applied, nobody ever mentioned, nobody, even the Village Board when they granted the B&B permit, nobody called it a two-family. That was quite unique to call this structure two-family.

MR. TASKER: Was the presence of the second dwelling unit made clear at the hearing for the B&B approvals?

MRS. MOORE: Well they made a full inspection of the property. You have to believe that they see what they see."

But as the Building Inspector later stated, "in 2001 they applied for a B&B. It was not done by the Zoning Board."

This is page 99.

So the Zoning Board was not there.

B&Bs are a product of Planning Board review. Planning Board typically does not do site visits.
It says does not do site plan but I believe it was correctly stated as, does not do site visits.

On page 70 I was inquiring with regard to some of the things we saw when the Zoning Board of Appeals made its visit. I was talking about some of the photographs which show the signage of the cottage. And I am reading from the record right now.

"There is a sign on it that says, "Cottage", hanging from it.

Mrs. Miller says, "What are these from?"

The last one of your exhibits on Exhibit A.

"MR. TASKER: The photograph shows a sign.

MRS. MOORE: Okay. There is a little sign on the door.

MR. TASKER: A little sign. It is about two feet by two feet. That little sign?"

I noticed when -- this is my
testimony or question, "I noticed when I visited the property when I was there by the swimming pool and saw the cabana there was a sign about the same size on the cabana that said, "cabana". We also noticed in the cabana there was a bed.

"MS. MOORE: A what?"

MR. TASKER: A bed. That is suggestive of providing -- meaning the signs, is suggestive of providing directions to people that have come and ended up in the driveway of the house to get to the unit that they are going to sleep in.

As the Building Inspector later noted during the course of the hearing, there were also signs saying pool and bathroom in that area.

Mr. Tasker of Mrs. Miller, "Why are those signs there?"

"MS. MILLER: Why is what there?"

MR. TASKER: Why are those signs on those buildings?
MS. MILLER: It is my decorative sense. The cabana, the pool, that whole area is private.

MS. MOORE: It is not the B&B.

MS. MILLER: The pool is not available to guests. It is only for private, us.

MR. TASKER: Therefore, those signs are there for your own edification?

MS. MILLER: Yes.

MR. TASKER: Okay."

But in an Internet listing that I took down last night, the Harbor Knoll Bed and Breakfast, it sites the amenities of the Harbor Knoll Bed and Breakfast, 424 4th Street. And I will get this to the stenographer for the record. And at the bottom it sites the amenities that are available. Free Wi-Fi, free breakfast, free parking, air-conditioning, bar and an outdoor pool. So that seems to be a false statement there.

Going on page 75, Chairman
Saladino. Ms. Moore goes on, "By full-time, are you describing full-time, you mean year-round?"

"CHAIRMAN SALADINO: As opposed to short-term, as opposed to transient.

MS. MILLER: No, because to be honest, I was scared and --"

"Okay", said Saladino.

"MS. MILLER: To lease for someone for a year and next thing, they'd be thrown out or something.

CHAIRMAN SALADINO: That's fine. But you had no qualms about renting it to transients on occasion?

MS. MILLER: Short-term, very short-term and minimally and with all the --" ending there.

At that point Ms. Gordon interjected, "it does make it sound more like it is part of the B&B. I think that is part of what we're -- and she was cut off, not recorded at that point. Trying to find out about the building. In other
words, a lack of understanding on Ms. Gordon’s part, as well as others, as to just what we were being told.

Then I questioned Ms. Miller again.

Mr. Tasker: So there never came an occasion, let’s say when someone phoned you to see if there is a B&B room available on which you might have -- on which occasion you might have said, well, we are limited to three. They are all booked but we have a cottage in the back that we can rent you.

Ms. Miller answered, "on occasion I might have done that. Yes. But not much."

"Thank you", said I.

On the website for the Northfork Bed and Breakfast Association which I looked at last night.

CHAIRMAN SALADINO: Arthur, do you want to take this up in our discussion?

MR. TASKER: No. This is reference to the assertion that I have bias against her because I asked questions that went to the veracity of what she was stating.
CHAIRMAN SALADINO: Okay.

MR. TASKER: That is the fundamental point, I believe, of Ms. Moore's letter.

The Northfork Bed and Breakfast Association, Harbor Knoll information, yada yada. And it says all of the three bedrooms offer beautiful views, private bathrooms, flat screen TVs air-conditioning and fireplaces. In addition we have a recently restored Enchanted Cottage, capital E, capital C, where pets and children are welcome.

There was an extensive discussion of my reciting the story of an incident regarding the maintenance of the driveway. Mrs. Moore, again, without personal knowledge recited that the Millers have always maintained the driveway and so forth. And since they hadn't I brought up the incident where I had to do it myself. And had the police called on me.

Subsequently in her affidavit Mrs.
Miller says, well it turned out the police shouldn't have come because it was a civil matter. Well, Mr. Miller, who is an attorney himself should have known that before he called the police. That it was a civil matter.

A neighbor, Mrs. Robinson, this is again whether or not people have found the assertions and allegations of the applicant and her attorney to be credible.

Mrs. Robinson said on page 89, "Well that would be so if actually three rooms were being rented. There are many more from my estimation. And that area is visible, there are many more than three rooms that are rented."

On page 106 Chairman Saladino said, we are asking. Ms. Moore interrupted and said, I mean we are not asking. Chairman Saladino said, "but what we are asking for is an accurate assessment of what exactly is going on here. That is all we ask for."

On page 108, Ms. Wingate said, "it
is my opinion that the initial application
to be a B&B was flawed because it was
dishonest because it was a two-family house
at the time. There was -- and she was cut
off.

Chairman Saladino on page 113, "but
we just heard testimony and the applicant's
own admission that you have been less than
forthcoming about who has been using the
building."

Page 114, Mrs. Miller, "I have a
website." Chairman Saladino, "So the
cottage is advertised on your website?"
Ms. Miller, "No."

But I just sited the Northfork B&B
listing from the -- from the Internet.

The attorney opened the door to the
discussions I raised about my own personal
experience with the Millers with regard to
the maintenance of the driveway. I then
went on page -- what page are we on? Page
118 I guess.

"I never lived in that house. I
rented it. It was a two-family house when
I bought it and I operated it as a
two-family house with rentals in the
expectation that someday my wife and I
would like to retire there. We had better
thoughts when we had been exposed to the
neighborhood."

There are buses idling by in the
parking lot. There is ferry traffic. The
is Jitney traffic. But to use this episode
to show bias is quite a stretch. And to
say that I didn't like the neighborhood or
we didn't like the neighborhood after we
had better thoughts about it certainly does
not suggest bias as to the Millers
certainly.

And finally at page 121, continuing
on Chairman Saladino said, we are going get
past the driveway issue -- and I
interrupted and said, "it is not a driveway
issue. It is a veracity issue." That is
what this --

Miller's attorney said, the final
straw was his accusation of my client's veracity, IE stating: Ms. Moore's conclusion that she is dishonest.

As evidenced from these examples, I, other members of the Board, its attorney, the Building Inspector and member of the public were concerned with the veracity of the applicant. Not just me. So it makes me wonder why I was the applicant's attorney's choice to accuse of bias against her client when she could have included others. Perhaps she mistakenly thought I was low hanging fruit.

So to summarize, to make its findings a Board must first, "collect the evidence found in the record. Then appraise the evidence by assigning it appropriate credibility." Which is what that hearing was aimed at doing.

And the agency's assessment of the credibility of witnesses is conclusive. As I said earlier, this accusation is a blatant attempt to smear my objectivity
because I and others are raising
uncomfortable facts regarding this
application. So let's move on. Thank you,
Mr. Chairman.

CHAIRMAN SALADINO: I have a couple
of comments also. This letter was
addressed to the Zoning Board. The Zoning
Board doesn't appoint members. It is the
Village Board that confirms the Mayor's
appointment. I have to assume that when
Arthur was appointed it was well vetted.
He is not new in the neighborhood. He is
well known to the Village Board, to the
Mayor, to the members of this board.

I don't believe anyone on this
Board had a problem with Arthur serving.
Not that it matters because we don't get a
say of who serves. So for the Mayor to
appoint him and for him to be confirmed by
the Village Board I think to take a word
out of -- out of context, well I live at
Peconic Landing. When Mrs. Moore -- I am
going to give her the benefit of the doubt
and assume she knew kind of what he was saying. To have two residences, as an attorney, you know, it is where you vote, what is on your driver's license I guess. Is it the best system? I don't know.

The other thing is that, you know, I found that -- I found that Mr. Tasker's animus to the Millers was obvious, I have to -- I have to -- I didn't see that. I don't think anybody on this Board pre-judged this application, including Arthur. I didn't see anybody or hear anybody express that opinion.

As far as living in that neighborhood, who knows where somebody wants to live. I mean Arthur is a hundred percent -- I live in that neighborhood. But I also worked for the railroad for 28 years. So the train doesn't bother me. I sleep just fine on the train. At that time -- could I ask you what year did you own that house?

MEMBER NEFF: It is in the record,
1982 to --

MEMBER GORDON: To '95.

MEMBER TASKER: Thank you all. And that is about right.

MEMBER SALADINO: From 1982 to 1995 there was no electric on the on the -- on the railroad dock. On the commercial dock.

MEMBER TASKER: I never lived there. I rented it the whole time.

CHAIRMAN SALADINO: All I am saying is that there is many, many, many reasons for not wanting to live in a particular neighborhood; the train, the generators from the boats. There was no electric on the train at that time. It was noisy.

Actually a prominent citizen made the same complaint. Even offered to put electric in so they would shut the generators off.

This letter also goes on, it says, "it was confirmed by the Building Inspector, the State of New York Codes Division that this is the only solution retaining the B&B special use permit
granted in 2001." I have a letter from the Building Inspector and I will read it for the record. It is from Eileen Wingate in response to Pat Moore's letter.

"Dear John, I feel it necessary to clarify a statement made on page 2, paragraph 3 of Pat Moore's letter dated 12-4-2017. As the Building Inspector I have never assumed or stated that the separation of the dwelling units was, "the only solution", to retain the B&B special use permit. I did however speak with Richard Smith of the Code Division. He explained to me why the Code Division Appeals Unit would not accept that application for a variance. Thank you for your time. Eileen Wingate. Building Inspector."

It was the Building Inspector's opinion -- as far as neighbor's opposition, it was me that raised the question asking the neighbor if the cottage was rented full-time as opposed to what we found --
what we believe we found was going on there from 2007 to when the cottage was renovated to the present, which was short-term --
What is the term we are comfortable with, short-term transient --

MEMBER NEFF: Transient.

CHAIRMAN SALADINO: Renters. My contention -- my question was if a couple lived there was there a possibility of two cars. If it was short-term renters it would be perhaps one car. Perhaps two cars if they came separately. It wouldn't be less cars. It would be different cars. So the traffic -- you know.

As far as the renovation we keep hearing the $100,000 number. I have an application for a building permit. And it says the cost of construction was $35,000. So maybe a lot more stuff went on after this building permit was issued.

I have a lot more to say. I am going to save it for if we have another discussion. Does anybody else have
thing else to say about this?

MEMBER GORDON: I guess I just

wanted to comment on the New York State

Attorney General's opinion that you site.

If a neighbor has pre-judged an

application, is the phrase that introduces

this quote, and it seems to me that the

application is for the Board to approve the

separation of the two buildings. And in

fact, Mr. Tasker's comments have very

little to do with that. They have to do

with they are the first-hand observations

of neighbors, that are allowed. They don't

really bear on what it is that the

applicant wants done. So to conclude that

he has pre-judged an application is invalid

on that ground.

I also think that the New York

State Attorney General says, if the

Planning or Zoning Board member appears to

have a conflict of interest based on the

facts and circumstances surrounding the

application. There is no -- it seems to me
there is no interest that Mr. Tasker has in 2017. No interest in the sense of no stake, no material stake. He hasn't had any interest in the neighborhood whatsoever in 20 years. I just think that, you know, this statement is supposed to be if not determinative, influential on the judgement about Mr. Tasker's role here and I don't think it works. That's it.

CHAIRMAN SALADINO: David.

MEMBER CORWIN: Well, this is our discussion phase and I will just make some comments on some notes.

First I want to note that it is a unique property --

CHAIRMAN SALADINO: David, before you start, if we are going into our discussion phase here maybe Pat -- Mrs. Moore sit down.

MS. MOORE: May I?

CHAIRMAN SALADINO: If we are continuing to address the letter she might want to -- if we are going into discussion.
Ellen did you have anything to say about this letter before we move on?

MEMBER NEFF: No. I think that we have dealt with all parts of the letter.

CHAIRMAN SALADINO: David, I'm sorry.

MS. MOORE: I would like to address the letter for one moment. I just want to say very clearly, it was not an intention to insult anyone, including Mr. Tasker. Okay? The concern we had and my client was here and generally before you appear before a Zoning Board you are -- it is nerve wracking to say the least if you have ever appeared before a Board. You know you are subject to questioning. The least you should expect is a fair impartial hearing. And it may be that you are all very fair and very impartial. The problem is that the only thing that the applicant gets is the comments. The comments -- and you can make very good comments -- that they are very relevant. But it is the way that the
comments are brought that is it an
inquisition or is it an observation or a
discussion? If it is -- understand that
that letter was a response to what we felt
was an inquisition by the manner of
questions that were posed by really -- Mr.
Tasker, you were pretty much the primary
questioner --

MR. TASKER: Let's count pages if
that is your concern.

MS. MOORE: We watched the
transcript before we wrote it. We did --
we looked at the transcript. I had my own
notes.

In the eyes of the beholder
understand that to an applicant, not just
Ms. Miller, but any applicant, how
questions are posed and the comments and
you know being called a liar or maybe the
facts were -- maybe I overstated that she
always pays for the road improvements.
Because in the '80s apparently she didn't
pay to improve the road enough. Certainly
on the record we would have told you that
the road has been paved and all the
improvements were done by the Millers. And
the road that you drove on that you thought
was in very good condition or should have
appeared to be in very good condition, have
been improved by the Millers. So
understand that the -- that letter was a
reaction to a hearing. I thank you if the
Board is going to be fair and impartial.

Again, Ms. Gordon raised a very
succinct point. The application was to
separate the two structures. We went way
far afield at the last hearing which is the
reason we felt something. Was it an
animosity that suddenly there was an
opportunity to take it out on my client or
not. It just felt at that time --

CHAIRMAN SALADINO: I disagree.

MS. MOORE: Understand that it is
in the eye of the beholder.

CHAIRMAN SALADINO: I would like to
respond to that. I don't feel that we did
go far afield. We were questioning the use
of a particular building. What it was used
for in the past. What it is used for in
the present and what perhaps its future use
would be. I don't think we went far afield
that we questioned a misrepresented
statement or less than forthcoming answers
about a particular piece of property.

MS. MOORE: Well, may I?

CHAIRMAN SALADINO: I just lost it.

And if you object to someone's -- I mean
the questions that seem to be objecting to
that one member asked were questions that
were on everyone's tongue. That was in my
mind, the feeling of the Board. Those
questions that were being asked, perhaps by
Arthur, were questions that I had in my
mind. It seems like it was more about tone
than it is about the validity of the
question.

MS. MOORE: Well --

CHAIRMAN SALADINO: If you are
taking exception to someone's tone, you
know, I am folksy. Arthur is not. David is quiet.

MS. MOORE: Okay.

CHAIRMAN SALADINO: I'm finished.

Go ahead you want to address the --

MEMBER NEFF: I think the way -- excuse me?

MS. MOORE: She wanted to say something.

MEMBER NEFF: Okay. We come to this with the history. The hearing and the documents we have before. The fact, one of the salient facts here is this has been an open building permit since 2007.

MS. MOORE: Yes.

MEMBER NEFF: That speaks to complicated and difficult to resolve over time with different characters. You know so that tells us one thing. We have this statement that in the Village of Greenport, a bed and breakfast is three rooms. I think the -- in a single family house. Thank you.
But pulling in some of the information about -- information on the Internet. About its use. In a lot of ways it is extraneous except it isn't. Because we also have the record of the people that live there and what exactly is happening. And how do we go forward given the three rooms and that we have here an accessory cottage. But it isn't really that. It is a separate dwelling. We have two dwellings. One very large. One very small. So this is complicated and people do have to go to the record. And how they look at the record is -- let's say at some point what they see is disputed among the parties that are taking a look. So I think we are because -- I didn't hear a tone. It may not have been my tone. But I didn't hear a tone that amounted to an attack, a questioning, a -- this -- the facts seem different from what I have in front of me or how I looked at other information, like for instance on the Internet.
So I think this is a difficult way forward. And how do we go forward? The history says there have been problems, serious problems evolving over time and we don't quite know how the path forward is going to be. And that is a very difficult place to be.

That is my point of view. And certainly, my fellow member, I have learned a lot from and need the input of all of us and did not find it in a way demanding a recusal because of his tone. This is my point of view.

MS. MOORE: Okay.

CHAIRMAN SALADINO: Okay.

MS. MILLER: Can I?

CHAIRMAN SALADINO: If it is important and really relevant.

MS. MILLER: This is part of my sense that I really have been victimized in all of this process.

CHAIRMAN SALADINO: Whoa. Whoa.

Wait a second.
MS. MILLER: I have never, ever had opened the pool for example -- to address some of the issues that Mr. Tasker -- I can not control -- there are thousands of websites out there. People take aerial photographs. People come and say, oh you have a pool. And I have to say, no, the pool is strictly for the family. The fact that the pool somehow merges -- if you look at my website there is no mention of a pool. There has never been. The entrance to the pool says private on both sides and I have never opened the pool to guests. I guess I could. I have chosen to keep that area private for the family.

And it is true that immediately after the renovation of the cottage and I put it on the website and subsequently when all of this variance application came I took it off the website. I was surprised that it is still on the Northfork Bed and Breakfast website. I have checked that recently. I didn't see it. If I had seen
it I would have asked for it to be immediately deleted. But there are websites -- I mean the B&B has been in existence for about 17 years. And so it is -- it is difficult to control old websites. I can assure you that I am renting a three bedroom bed and breakfast. And then for a neighbor to say that there are more people in the house. Yes, there are sometimes more people in the house. I have family. I have children that come. I have my own guests.

CHAIRMAN SALADINO: Mrs. Miller.

MS. MILLER: To say that I am somehow running a house of ill repute is just --

CHAIRMAN SALADINO: I don't think anybody suggested that.

MS. MILLER: -- is just beyond things. And that I'm doing it for economic gain. I mean, it is really -- it is all a bit much.

Initially I think I put in a figure
of $59,000 for the renovation of the
cottage. I don't think it was 39. And the
cost escalated because we pretty much
gutted the entire building and the house
inspector would have seen and the costs
really escalated over what we were hoping
to spend.

This whole thing has been ten
years. Ten years in existence. We have it
hanging over. We have tried to contact the
Village Inspector, the Village Lawyer.
Just going around and around and around
with nothing happening and my occasional
renting of the cottage for occasional
summer rentals. Very little. Not
advertising. I don't know. I just -- the
whole thing is really.

I just got my taxes yesterday.
Clearly says one-family house. We have
never talked about a two-family house.

As for traffic if I sold the house
tomorrow do you think an elderly couple is
going to buy the house with ten bedrooms?
There is going to be at least a family.
Lots more cars. We have now one car. My husband can't drive. Just my car goes in and out. I don't know what people expect.
It is reaching kind of a ridiculous level.
This whole experience has been really cruel and hard.

CHAIRMAN SALADINO: Before you say anything else, since we -- the -- the public hearing is closed, as a courtesy we let you speak. But I think it is time now that we stop because some stuff is being said --

MS. MILLER: I am sorry. I get emotional. It is a very emotional experience. Very frustrating.

CHAIRMAN SALADINO: David, I interrupted you.

MR. PROKOP: Before we start the discussion. This has gotten twisted around in court. It has gotten twisted around here. I just want to get this straight.

As I understand it, the Village has
never made any recommendation that these buildings be separated. The Village has
never made a statement that it concurs with anybody's else recommendation that the building be separated. If the applicant chooses to act on a recommendation that she claimed that she got from somebody else that is entirely up to her. The Village is not blessing that or saying it will put her in a better situation. The -- as far as the application for a variance to New York State, it has been represented -- we confirmed this last month, there is an application pending before New York State. If the applicant chooses to recognize what they claim is advice they have been getting from the local architect from the New York State Department of State, that is their position and the Attorney's responsibility. It has nothing to do with any position or recommendation of the Village. I just wanted to clarify that.

CHAIRMAN SALADINO: Just to further
clarify that, we have a comment from the applicant's attorney but we have no writing or no statements from Richard Smith. All we have is her interpretation of that phone call. But we do have from the Building Department that she did speak with Richard Smith of the Code Division and, he explained to me why the Code Division Appeals Unit would not accept an application, would not accept an appeal for a variance.

MR. PROKOP: That doesn't -- they don't not accept applications. You either make an application or you don't make an application. If you make an application it will find its way to Albany and as I understand it you will be heard. My understanding is they do not not accept applications. And I don't think it is relevant to this proceeding. It has nothing to do with it.

CHAIRMAN SALADINO: I kind of agree with you. What happens in Albany stays in
MR. PROKOP: Any recommendation from the New York State Department of State would be with reference to the international code. The New York State Fire Prevention and Building Code only. Not with respect to the Village of Greenport Code.

CHAIRMAN SALADINO: Okay. David.

MEMBER CORWIN: First I want to say this is kind of a unique property. It is such a big structure. There was a big piece of property but it was subdivided. Now it has got a narrow, private road. I want to point out there is a parking problem there. When I went to the inspection I couldn't park my truck there. I got stuck half way in the driveway. It was really mortifying that I couldn't maneuver in there. And what is happening is going from a bed and breakfast to a cottage. A bed and breakfast and a cottage. So right now it is a bed and
breakfast in a single-family house. It would go from a bed and breakfast in a single-family house to a cottage, which is not allowed under the code of the Village.

I am not in favor of people putting these cottages. They call them studios. They call them cottages. I know the former Building Inspector was big on these cottages. But I'm not. Because what is going to happen is once one person -- if the Zoning Board of Appeals says, yeah, you can have a cottage, once one person does that there is going to be a line out the door for cottages. And it is not going to be cottages for Joe Blow to rent a place to rent. It is going to be cottage for weekend rentals. And these weekend rentals -- I call them Air B&B type rentals are really a problem. They are turning the whole community on its head. And I think adding them or making more of them just aggravates the problem with rentals.

Because people see, hey I can make $20,000...
in a couple of weekends over the summer.
That is what I see happening with this and
everything else. The main request is two
special uses; a bed and breakfast and a
cottage.

In the past I know there
have been excesses on that piece of
property. At one time it was advertized or
set up as a wedding venue with more than
three bed and breakfast type units rented
out. That was a bone of contention and I
got this from the Building Inspector. She
was quite concerned about it.

I did my own research. I looked up
the site on Air B&B and where ever it was.
And it looked to me that it was being
rented out as more than just three bedrooms
as a bed and breakfast.

So I have to say the applicant has
not been completely straight forward with
the Village. And that was kind of brought
out last month in the back and forth.
Basically what is going on here is this is
going to end up more as a hotel than anything else. Maybe that is what it was originally constructed for.

I see both sides of this because it is a big structure. So many bedrooms. Well let me use all the bedrooms. The other side of the story is under the code I don't see how it happens. Thank you.

MR. TASKER: David, let me give you some historical information. That property, the entire property before it was subdivided was owned by, built by a man named Mr. Elmer of the Elmer company, the scientific company. That was his personal private estate. That is why he had a caretakers cottage in the front, which was the building that I owned for several years.

MS. MILLER: He was not the original owner. He was the third or fourth.

MEMBER TASKER: You know the history better than I. But it was the
estate of a wealthy person.

CHAIRMAN SALADINO: I don't think we should concern ourselves with how many rooms there were or are. You know people build things. Look at Buckingham Palace. Four people live there.

MEMBER TASKER: John, I think it is important, as we have been trying to do in the hearing. How is the building being used? How should it be used? How is what is being asked for going to change that potential use and what is going to happen? I think there are an awful lot of unknowns here that we ought be able to have information on in order to answer those questions.

CHAIRMAN SALADINO: I agree with you 100% that we should be concerned about the future use of that accessory apartment. What is going to happen there? As far as the seven bedrooms in the house. One I assume Mrs. Miller occupies. The other three are advertised as B&B units. The
other six, that is for code enforcement. I don't think that is for us. I think that is outside. If somebody makes a complaint, a valid complaint then it is up to the code enforcement officer to address that. Not us. We shouldn't deal on -- with the unborn.

As far as the apartment -- we keep calling it the cottage. It is an accessory apartment to a house. Isn't that classic definition, perception of a two-family house. The fact that in 2001 the Planning Board didn't address it -- that is -- not to sound harsh, that is on the Planning Board. You know, if they didn't address it or they didn't take interest in it -- what?

MR. TASKER: Who are they going to --

CHAIRMAN SALADINO: Well, also, in all fairness to the Planning Board in 2001, Greenport was a bit of Dodge City. You know, they didn't know. It might have
servant's quarters. It might have been, you know, a studio. It might have been --

MEMBER GORDON: It was smaller then too.

CHAIRMAN SALADINO: It was smaller. It might not have had a kitchen. There is stuff we don't know in 2007 when it was renovated. I personally think it is possible to do a renovation without the Building Inspector -- maybe in her heart or maybe in her head, his or her's, might know this may be used as a second dwelling unit. But to add a bedroom to a house, an existing house and then find out later on that it is going to be used as a second dwelling.

MEMBER GORDON: I would like to follow up and get back to the present on what David was saying. On page 49 somebody said -- of our last month's minutes. Somebody said cutting the building -- cutting the building creates other issues. Of course that is right. Buildings have to
be ten feet apart. There is a whole sequence of problems that I think would occur. It seems to me inevitably legitimizing the use which is for short-term rentals. And the concerns David has about permitting short-term rentals to dominate the market in Greenport and cut out the options for people who so badly need rental housing is to me a serious issue.

Secondly, the building has been used without a permit. So we are being asked to overlook some of this. And I'm uncomfortable with that. That is a form of illegal behavior that concerns us in the context with other people that come before the Board. So that concerns me. Last week the applicant said she was renting for a week at a time with no CO. And we know of advertising for a wedding. At least one. I don't know if more than one. So there is some indication it seems to be of what will happen in the future from what has happened
in the past to the extent we know what has
happened in the past. So I feel very
negative about this application. I am
sorry to increase hardship that the
applicant feels but that is my view at the
moment.

CHAIRMAN SALADINO: Ellen.

MEMBER NEFF: I noticed a few
minutes ago that this is a survey of a May
2017. It says two and a half story Inn. I
don't know how many of you have noticed
that. I bet it is picking it up from a
previous survey. In a lot of ways it may
be that this structure, the two as they are
now is one structure, have operated as an
Inn. The CO situation is that it is a bed
and breakfast, which in this Village is a
three bedroom in a single-family house. I
still don't know how we go forward. I
think I am more likely inclined to give the
building permit, which is still open.

Cutting it so there is a foot between it
and calling it an accessory apartment or --
it does make it a two-family house even there is great disparity in the size of the two. So I am still confused about that on how to proceed.

MR. TASKER: You can have a --

CHAIRMAN SALADINO: How so?

MR. TASKER: If you separate the building with the accessory apartment if you separate it from the rest of the building you may have created a situation where you have a single family house with three permissible B&B rooms. But you get this thing hanging out there which is a second building, which is not only not ten feet separated but it is also a second dwelling unit on the same parcel. So you have two single family houses. One of which is a B&B on the same parcel of land. You fix up the B&B so it is not a two family house. But you create another gaping.

MEMBER GORDON: Presumably the reason the State prohibits a two-family
house from being a B&B is that the second family is -- who is in the structure doesn't want the traffic, the human traffic of the B&B around it.

MEMBER NEFF: We don't really know why.

MEMBER GORDON: Why else would the --

MEMBER NEFF: By definition I think. More than --

MEMBER GORDON: The only reason I can come up with for the State to say no B&B in a two-family house is so one family won't be so inconvenienced by having the other family's space used by the B&B. It seems to me this is going to be sort of the situation with the separated -- you have only got -- it is like having -- you have chopped out one foot but you still have the ambiance of the two-family dwelling with one B&B as part of the two-family.

MEMBER TASKER: The one foot separation is sort of smoke and mirrors.
B&Bs used to be called tourist homes. There are tourist homes all over the Northfork. My grandparent’s ran a tourist home on the Northfork in a big estate. They took in borders in the summer. So it is not a new phenomenon. A B&B is not a new phenomenon. I think they knew how to run it so no one was inconvenienced. They wanted to run their business but they wanted their guests to enjoy.

CHAIRMAN SALADINO: One of my concerns is from listening to the applicant and her attorney and the public and the one letter we have from the public, even if this is to come to pass, that we saw fit to let them cut a foot away from the building that would create this second dwelling unit on the property. When we say dwelling unit I'm just not convinced it is not going to be an extension of the -- and I know it might be an assumption but I am just not convinced it is not going to be an extension of the B&B operation.
So you know we have heard testimony of a full-time occupant prior and -- prior to 2001. We haven't heard anything from 2007 to the present. It just -- it just -- not yet. It just -- an excuse my tone. It just seems to me that from all that we have heard there was an opportunity to rent it full-time in 2007. The applicant chose not to do that because she was afraid of being violated. But had no qualms of renting it as a fourth B&B room, by her own admission. So we are kind of deciding which law we are okay with breaking as opposed to which law we are more likely to get caught breaking.

And just to address one more thing in this letter that we received. It says the neighbors had no problem -- the neighbors that wrote a letter had no problem with the B&B operation. And were more concerned with traffic. Actually the first paragraph of the letter says that they were in fact concerned about more than three rooms. I believe there was testimony
that they saw the cottage occupied on
different occasions. I am just finding it
hard, unless somebody has got some document
or something that this is not a two-family
house. I just can't get it clear in my
head that this right now, at this
particular moment in time with 10 bedrooms
and a living room and a dining room and a
kitchen over here and a living room and a
kitchen and a bathroom and a separate
bedroom with no access to the other
building is not a two-family house. Now
you are asking us because you still want
the B&B operation and you can't have it in
a two-family house, you ask us to allow you
to separate the house, not the ten feet
that is required. Overlook the fact that
if we granted these variances would create
a separate dwelling on the property which
is against the code. In my mind, right
here and now, it is a big ask. And the
fact that it is -- that you have been
inconvenienced -- you consider it a
hardship since 2007 -- I have no answer for that. Sometimes we make bad decisions and we have to live with them. But the solution to your problem, to the applicant's problem going forward I don't really have an answer for her.

MR. PROKOP: If I could, I wanted to make a legal point -- I was waiting to make the point. I think you said it. If the properties are two and two-family is legal, it doesn't mean that two one-family is legal. So I think that there is another problem that is being created here. It wasn't part of the application. I believe that you can't go from a one two-family to two one-family.

CHAIRMAN SALADINO: I thought the variance would be to create a separate dwelling on the property regardless of what the other dwelling was.

MR. PROKOP: I don't have the Notice so I can't say. I just have the agenda.
MEMBER CORWIN: Can I make a suggestion, Mr. Chairman?

CHAIRMAN SALADINO: Sure.

MEMBER CORWIN: I don't see much support for this. Before I came in here, let's hold it over for another month and think about it. I don't see the support so why don't we go ahead and seek the resolution and take a vote and see what happens.

MEMBER GORDON: Yes, I agree.

MEMBER TASKER: Is there not another out to have the Planning Board look at this to review the use?

CHAIRMAN SALADINO: I am not going to --

MEMBER NEFF: Could I ask Arthur to say more about that.

MEMBER TASKER: The Planning Board, I guess, has jurisdiction over B&B -- is it a special use waiver?

MEMBER CORWIN: They are not going to have a better answer than we have. We
just -- if we do that we are saying we
don't want to deal with it, you deal with
it.

CHAIRMAN SALADINO: Exactly. I
think to pass it off to the Planning Board
is us saying we don't want to deal with
this.

MEMBER TASKER: No. I think we can
do the variance application. Nothing
changes. If this variance is denied or if
it is approved. Nothing changes on that
property. Except it looks good on paper.
We have a one foot gap.

CHAIRMAN SALADINO: The thing is
that happens to us all the time. We rule
on a variance or we grant or deny a
variance and nothing changes. So --

MEMBER TASKER: I understand your
reluctance to refer this to the Planning
Board. I understand that. This is a
little --

CHAIRMAN SALADINO: What would we
tell the Planning Board.
Mr. Prokop: In the denial letter there was a determination as to the use. The Building Inspector determined that the separation would end up with not a permitted use. Then there was also an area problem with the ten foot separation. I think her determination that it was going to go with a not a permitted use should really have required a use variance not an area variance. There was no testimony with what is normally required for a use variance.

Member Corwin: Well let's move along.

Chairman Saladino: Wait.

Member Neff: Mr. Prokop, did you say that we didn't know about a use variance?

Mr. Prokop: Most of the discussion is about the use and if you look at the Notice of Disapproval the first basis for the disapproval is what I had said before that you would be separating one
residential building which is a two-family
in an R-2 District. You would be
separating it into two one-families. Which
I don't believe a legal use. And in fact
the Building Inspector made that as her
first reason for denial. If the separating
the building into two one-families is not a permitted use then the use variance would have been required in addition to the ten foot separation variance. And the use variance has a different standard of proof.

CHAIRMAN SALADINO: We know. We also know that if we require a use variance we would start from --

MEMBER GORDON: No. We couldn't do that in this session. We can only -- we could only refuse to separate the two buildings.

CHAIRMAN SALADINO: I thought we could do that without bring use variance to the -- to the discussion.

MEMBER NEFF: You only bring the use variance into the discussion if we
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permit --

CHAIRMAN SALADINO: That is not what the attorney is saying.

MEMBER NEFF: Isn't that what you said?

MR. PROKOP: That is correct. If the buildings are not separated then it is not an illegal use. It is still a permitted use as a combined building. Being R-2.

MEMBER TASKER: Then you have a violation then remaining of the -- in the two-family dwelling.

CHAIRMAN SALADINO: But that is not for us --

MEMBER TASKER: That is what happens.

CHAIRMAN SALADINO: We understand that is what happens. We understand that. We don't -- we are not here to cure the world's illness. Only what is in front of us know. If somebody is listening -- if somebody from the Planning Board or the
Building Department is listening out there in television land they might want to take that up with somebody in authority. As far as this board is concerned I think we should deal with what is in front of us now as opposed to after we make a decision what happens then.

I'll leave it up to you.

Dinni says she should be allowed to speak.

MS. MILLER: First I just wanted to point out that certainly I don't want to divide the building. It is a building that has been around for over 100 years. And the idea of dividing it only came up as a possible solution to the situation we find ourselves in. The usage of -- I call it the cottage, before it was renovated was almost more or less long term. On a year round basis. For reasons of having someone to provide security as well as some obviously small additional income at the time. My desire is to have the cottage for
a year round rental. If I wanted a fourth room I could have asked for a variance for an additional fourth room, which has been granted to other B&Bs in Greenport. But my intention of the usage was to provide year round. And -- year round occupancy. My husband who is disabled and the idea of having someone permanently in the cottage appeals to me. There also may be a time when I don't want to do the B&B anymore. And I'm not getting any younger and so right now you know if we wanted to revert the house to room residential use or even if we wanted to sell it. Without a CO -- I mean you really have us in a kind of a bind. And if I had known there was this issue before investing in the cottage and renovating it I never would have. And the most that cottage would occupy is two people. Not a family. It is small. It was enlarged a little bit but it is small. It is still a tiny dwelling area. So if we stop the B&B then can we still continue the
house as we did before with renting the
cottage? Which apparently for years and
years never was a problem. Is it suddenly
a problem? Am I supposed to --if I
continue the B&B have this cottage with
expensive renovation which I can't even
have family, a child live in it legally. I
mean this is --

CHAIRMAN SALADINO: Why not?

MS. MOORE: The reason that it
could not be rented full time after 2007 is
without a CO you can't rent year round
occupancy.

CHAIRMAN SALADINO: Joe, if she
took the stove out --

MS. MILLER: There is no stove.

CHAIRMAN SALADINO: The kitchen.

MS. MOORE: There is a microwave,
right?

MS. MILLER: Yeah.

MR. PROKOP: If they had access to
the house.

CHAIRMAN SALADINO: Make access to
the house.

MR. PROKOP: Yeah. It is up to the Building Department. But I don't think there is a distinction. Unless there is something that I am unaware of I don't think you are legally okay to rent it but not rent it for a year. If it doesn't have a CO it can't be used for habitation.

MS. MILLER: Right. I can't use it, period, legally.

MR. PROKOP: But I think the discussion that we have had with you in the past is that it needs to be made part of the house. Excuse me, our suggestions was that you consider making it part of the house.

MS. MILLER: How? I mean for what purpose?

MS. MOORE: As an extra bedroom?

MR. PROKOP: As part of the house.

CHAIRMAN SALADINO: Or whatever you decide to make it.

MS. MOORE: I think that is part of
the problem.

I think that is my family looking for me. I am supposed to be on the road.

It was a cottage before and this whole thing has terminated the use that was there before -- we think before zoning.

The problem is that nobody got pre COs because it was not required.

MR. PROKOP: In New York State you are not allowed to have a bed and a breakfast in a two family house. This is a two-family house.

MS. MOORE: They why --

MR. PROKOP: In the Village of Greenport you can't have it.

MS. MOORE: I understand but she was given a building permit. It was called a cottage. So the --

MR. PROKOP: You called it the Enchanted Cottage when you advertised it.

MS. MOORE: No. The building permit is called a cottage. A building permit for a cottage.
MR. PROKOP: You called it the Enchanted Cottage.

MEMBER TASKER: A cottage is a --

the Building Inspector said is an architectural style.

MS. MOORE: Oh, please. I understand what she said, but it is a cottage. It was on separate living quarters before the building permit. And it was all there and the Building Inspector saw it and the building permit is showing how it is going to be modified. The -- a homeowner thinks, okay, I can make the renovations and get the CO after six inspections. It is unfair and I think you would have to put yourself in her shoes to get a building permit and then suddenly find out that after all of the investment that the B&B is made illegal or --

CHAIRMAN SALADINO: But you are asking this Board to overlook a mistake that was made perhaps in 2001 and perhaps another mistake that was made in 2007. You
are suggesting that this Board play it forward. That just overlook that mistake, disregard the evidence that is in front of us.

MS. MOORE: If we had asked her to disregard it we wouldn't be here.

CHAIRMAN SALADINO: By your own testimony now it is like my client shouldn't suffer for what happened then. It was always that way. It is -- I can't speak.

MS. MOORE: You have already decided.

CHAIRMAN SALADINO: I have a problem with that statement, that everybody has decided. I haven't --

MS. MOORE: All right. I'm sorry.

MEMBER TASKER: I think that should be retracted.

CHAIRMAN SALADINO: It doesn't matter.

MS. MOORE: If the decision is contrary to your comments.
MR. PROKOP: I think one other thing -- on other point I would like if I understand what I have heard tonight is that, first off -- Chairman Saladino, you are correct. There has been a case. I think it is Parkville Associates which protects the Village and the Building Inspector from mistakes. And the -- basically from what I have heard, if I am not mistaken, that if it was recognized in 2007. There was some kind of problem here and you are here now and you have claimed years and years of hardship. But you could have made this application in 2007. This could have been addressed in 2007 by this application now.

MS. MILLER: We tried.

MR. PROKOP: I didn't see.

MS. MILLER: We tried to consult with you Mr. Prokop and there was previous lawyers.

MR. PROKOP: I have a problem with you saying that. I have always consulted.
If your position tonight is you have some kind of a problem of hardship because you tried to consult with me and I didn't consult with you.

MS. MOORE: No. That is not what she is saying.

MR. PROKOP: First off, it is not true. It is offensive.

MS. MILLER: What I am trying to say is we tried to address the problem immediately.

CHAIRMAN SALADINO: This came before the Zoning Board in 2007?

MS. MOORE: We had no Notice of Disapproval or even direction. It was not until --

MR. PROKOP: We don't direct you. That is not our job to direct.

MS. MOORE: Well the Building Inspector has to give us a Notice of Disapproval on the direction we have to go.

MR. PROKOP: She doesn't hand out Notices of Disapproval. You have to do
something to get a Notice of Disapproval.

MS. MOORE: We had an open building permit. We couldn't get a CO. Based on that the next step is the Building Inspector gives the Notice of Disapproval. That is the procedure. Would you not agree?

MR. PROKOP: I don't agree.

CHAIRMAN SALADINO: Without agreeing or disagreeing because I am between two attorneys --

MS. MOORE: That's fine.

MEMBER GORDON: That is a terrible position.

CHAIRMAN SALADINO: Why didn't you ask the Building Inspector in 2007 when you could get a CO, ask for Notice of Disapproval so you could --

MS. MOORE: I wasn't the attorney at the time.

MS. MILLER: I had another attorney.

MEMBER TASKER: Same question.
MS. MILLER: I mean they tried. I guess he tried to --

CHAIRMAN SALADINO: Can you understand our position that in 2007 you had recourse. You could have asked the Building Inspector. You had an open --

MS. MOORE: We are seeking that recourse today.

CHAIRMAN SALADINO: But you are saying for ten years you have been trying to do this. No you're not. You have been trying since August 11th.

MS. MOORE: They were working with the Village, however they were working. I know that there were active discussions. I had hoped that I could get the variance from the State so that we could continue to keep everything the way -- the State said we had no other option. That is why we are here.

MR. PROKOP: I don't think that is correct.

MS. MOORE: Please contact Mr.
Smith directly.

MR. PROKOP: Mr. Smith is --

MS. MOORE: And the State Attorney called and there was nothing that I could do. Nothing I could do. Believe me we are not here because -- this is the last resort. I would have preferred the State. It seemed to be a pretty straight forward determination that we have a single-family house with an accessory cottage. Not a two-family. That is the way it has always been interpreted by COs. That it was a single-family dwelling. The cottage remained as it was since the beginning until Ms. Miller renovated it. It was the way it has always been.

CHAIRMAN SALADINO: And in 2007 after renovation it was discovered that this is not the way it is. Somebody previous to that overlooked something or did something.

By raising that question all I was doing -- we sat here for two meetings over
the course of two months and heard you say
that for ten years you have been held up
from realizing -- I don't want to say a
profit because it has been discussed that
you are not making a profit. That you
could realize the use from that cottage
because something the Village did for the
last ten years. And I dispute that. For
the last ten years the ownness has been on
you. So when I sit here and I ask you, how
come this didn't go before Zoning in 2007?
Your response was, I wasn't the attorney.
Then -- the conversation here also was that
she has been a victim. What the hell is
that?

MS. MOORE: The representation is
to spend money for a building permit to
then find out --

CHAIRMAN SALADINO: We are doing --
we are doing our due diligence here.
Perhaps she was victimized by the three
previous attorneys. I don't want to say
that. It is just we shouldn't be carrying
the water for somebody else that perhaps
gave her bad advise or perhaps didn't --

MS. MOORE: Well, once I know how
you decide I will know if this application
was the appropriate method. A denial here
would still leave us in the same position
we are in.

CHAIRMAN SALADINO: Well, a denial
here doesn't stop you from going further.
We all know that a Judicial Review is
certainly your right.

MEMBER GORDON: I just think our
task here is to decide about both the
immediate effects and the longer term
consequences of what the applicant asks.
We should stick to that and not be too much
dredging up of who was responsible for
what.

CHAIRMAN SALADINO: Okay. Are we
ready to do SEQRA? Are we ready to do five
questions? What do you want to do?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: I make a motion
that the Zoning Board declares itself lead agent for the purposes of SEQRA.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: And for purposes of SEQRA I am going to declare this --

MR. PROKOP: It is an unlisted action.

CHAIRMAN SALADINO: It is an unlisted action.

MEMBER GORDON: Yes. It is not.

MR. PROKOP: The other thing is I recommend you consider some of the impacts on the environment before you decide if it will have a significant negative impact.

CHAIRMAN SALADINO: Okay. But we have to do SEQRA --

MR. PROKOP: Some discussion on
SEQRA before.

MEMBER CORWIN: I want to know what impact on the environment it is going to be. Increased parking on a private road. The neighbors have brought up questions and I certainly had an experience that didn't negate what the neighbors said. And I also want to note, as far as I can see this is going to end up two one-family houses. One of which will be a bed and breakfast. Which is producing a cottage for an accessory dwelling unit. That is what it is producing, an accessory dwelling unit that I have to maintain is not good for the rental market, low income housing in Greenport. And we know that that accessory dwelling unit is not going to be rented to no low income people. That is too broad a statement. I really question if that dwelling accessory unit will ever be rented to a low income family or couple.

Once again, once that door is open then you can have an accessory dwelling
unit in your backyard they are going to be lined up out this door for accessory dwelling units. Which will have an effect on that neighborhood and the whole Village of Greenport.

CHAIRMAN SALADINO: Anybody else.

MEMBER GORDON: Well, it seems to me the parking is the question, the environmental question, but I am not sure if it would change very much if we accept the statements from various sources that their have been renters in the cottage. Now there will be once again renters in the cottage. And it wouldn't be significant that it was one foot separated from the main residence. So I am not sure that the parking problem would be effected negatively.

CHAIRMAN SALADINO: Did I interrupt you, Arthur? I'm sorry.

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I am going to agree with Dinni. I mean the parking there
is -- we went for a site visit. The parking there is tough. But what I am not willing to admit is that apartment has been vacant, that dwelling unit has been vacant as often as being presented here. I'm thinking the parking, the neighbors have lived with that parking. I have to be honest with you. I don't drive in there much. So I don't really know what is going on there. So I am not sure if parking is that big a concern. The second dwelling unit on the property is a concern for me.

MEMBER NEFF: It is a precedent.

CHAIRMAN SALADINO: As far as SEQRA. As far as increased density.

MEMBER TASKER: John, if I may. As I said in earlier remarks Board members can speak to their own personal experience with respect to a particular application. You just said you don't have any personal experience of how that parking is along that road. I'm looking at the letter by -- submitted by Carrie Robinson and Walter
Candice-Tilford (phonetic) who are residents in two houses adjacent to that. In other words, they use that right of way, shared right of way. They say the presence of the B&B which is located on a very narrow right of way that is shared with other homes is already negatively changed the character of the neighborhood. With the increased traffic from B&B guests coming and going, trucks making deliveries and a loss of privacy and quality of life, the strangers constantly around. It is for these reasons that we oppose the granting of the variances. And that would potentially allow the B&B to add more rooms over the three that they are currently allowed to have and give our residential neighborhood and even more commercial feel and further deteriorate our quality of life. So it is not that the neighbors have not spoke out with respect to this, as someone asserted, I think.

CHAIRMAN SALADINO: Ellen.
MEMBER NEFF: I agree. The statement of the neighbors are saying over time that it is a problem. I think the granting of the variance, what it does is makes -- it gives an official blessing as it were to a condition that has been going on at times at the property. And therefore, could make the total impact of it more negative to the neighborhood. It has been going on but now you would guarantee that it would be allowed to go on if you grant the variance.

CHAIRMAN SALADINO: I agree with that. I'm not sure. Can we go back retroactive -- can we go back and say this is how it was and now it has been fallowed supposedly for ten years --

MEMBER NEFF: No. I don't think we agree it has been fallowed. I think at times it has been in use. How much of the time I am not speculating.

CHAIRMAN SALADINO: That is because we don't know.
MEMBER NEFF: Right.

CHAIRMAN SALADINO: Are we done with SEQRA? About expressing our opinion about SEQRA.

MEMBER GORDON: Does that keep it an unlisted action?

MR. PROKOP: I think it is still an unlisted action. It is just a question of if there is an impact or not.

CHAIRMAN SALADINO: So the motion would be we would have -- it is an unlisted action that would have a negative impact on the environment. And if we vote yes --

MEMBER CORWIN: That means it doesn't have any problems.

CHAIRMAN SALADINO: If we vote no we have to square that away before we do the variance.

MEMBER CORWIN: That is what we are trying to do right now. What is the impact? My understanding is negative impact is no impact on the environment.

MR. PROKOP: A negative declaration
means there is no negative impact. As positive declaration means that there is a negative impact.

MEMBER CORWIN: My position is there is some sort of impact on the environment. There is an impact -- if someone flushes a toilet there is an impact on the environment. Somebody drives down there and gets stuck in the driveway there is an impact on the environment. And certainly all of the neighbors that are inconvenienced. Somebody trying to move their car are going to say, gee, there was an impact on the environment.

CHAIRMAN SALADINO: I think we have to go passed the what if questions. I think we have to go with what is usual and customary for daily life. You know getting stuck in the driveway or a toilet backing up --

MEMBER CORWIN: My point is anything you do has an impact on the environment. If you flush the toilet. I
don't expect it to be backed up but it has
an impact on the environment.

MEMBER NEFF: Does this mean that
you would never support a negative
declaration?

MEMBER CORWIN: No.

MEMBER TASKER: May I ask the
attorney, what are the procedural
implications if they had an impact, a
negative impact? What are the procedural
implications of that?

MR. PROKOP: So number one, you
could then recommend conditions if you
wanted to ameliorate the impact, mitigate
the impact. The other thing is your SEQRA
finding falls into one of your five
considerations. Because one of the
considerations is whether or not there will
be an impact on the environment. So those
two determinations are really supposed to
coordinate.

MEMBER GORDON: When you ask those
questions, does it give a significant
impact on the environment in the five that we consider, does that only mean the physical environment? I always that also meant the social environment.

MR. PROKOP: That is more character of the neighborhood; light, noise. If you adopt a positive declaration you could still move ahead with the application.

CHAIRMAN SALADINO: How? Just by leveling conditions?

MR. PROKOP: You could recommend conditions. Or like I said that could flow into your consideration of the five criteria because one of the five criteria is whether or not there is going to be an impact on the environment.

CHAIRMAN SALADINO: So would the motion be to make a negative declaration and that there would be no -- that there would a negative impact and we would reject that?

MEMBER TASKER: But you get into a conflicting situation when you go into the
five questions. There would be a negative impact.

MR. PROKOP: I don't want to suggest your result but if you are asking me how do you find that there is an impact on the environment it would be a motion to adopt a positive declaration.

CHAIRMAN SALADINO: I thought we would vote on a negative declaration. It would be rejected and to make it --

MEMBER TASKER: Skip a step, John.

MR. PROKOP: If you are proposing to adopt that there will not be any impact on the environment then the motion is to adopt a negative declaration. If you are proposing to determine that there is going to be an impact on the environment then you should make a motion to adopt a positive declaration.

I wouldn't defeat one motion and then do another motion. My recommendation is whatever one you want to do just make that motion.
CHAIRMAN SALADINO: Okay.

MEMBER GORDON: If we know it is not going to be unanimous it seems to me it should be making the motion in the direction that gives voice to the person that is not going to --

CHAIRMAN SALADINO: Like I always say, I think your opinion should be expressed in your vote. We will make a motion and people's opinions will be expressed in their vote.

So I make a motion that we make a positive declaration and we will make this -- have a positive impact on the environment.

MR. PROKOP: Negative impact.

CHAIRMAN SALADINO: Negative impact.

So moved?

MEMBER TASKER: Second.

CHAIRMAN SALADINO: Who seconds?

MEMBER CORWIN: Say the motion again, please.
CHAIRMAN SALADINO: I make the motion that we declare this --

MEMBER GORDON: We are making a positive declaration.

CHAIRMAN SALADINO: A positive declaration and this will have a negative impact on the environment. Is that it?

MEMBER CORWIN: I don't think so.

MR. PROKOP: You are adopting a positive declaration determining -- the motion is to adopt a positive declaration therefore determining the application would have a negative impact on the environment.

CHAIRMAN SALADINO: So moved.

MEMBER CORWIN: I'm sorry. I haven't had any philosophy courses. I can't quite figure this out. You are making a motion that it is a positive impact on the environment.

MR. PROKOP: No. The motion that is proposed is to adopt a positive declaration. A positive declaration means that there will be a negative impact on the
MEMBER GORDON: It is a way of saying, yes, the environment will be damaged.

MR. PROKOP: In other words, you tested positive.

MEMBER CORWIN: This is a problem I have had. Throwing these terms around -- a negative impact to me is you are doing something that harms the environment.

CHAIRMAN SALADINO: In this case, making a positive declaration that is exactly what you are saying.

MEMBER CORWIN: Make a positive declaration that it has a negative impact on the environment.

MEMBER GORDON: You are saying, yes. It has a negative impact.

CHAIRMAN SALADINO: If that is how you feel. Don't let Dinni push you.

MEMBER TASKER: For an attempt to understand, an affirmative declaration that it will have a negative impact.
CHAIRMAN SALADINO: And negative is bad.

MR. PROKOP: Can I please rephrase.

MEMBER GORDON: Yes.

MR. PROKOP: It is a motion to determine that it will be a negative impact on the environment and therefore a positive declaration is adopted.

CHAIRMAN SALADINO: So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: Back to David.

MEMBER CORWIN: Let's do a role call.

CHAIRMAN SALADINO: Let's do a role call.

MEMBER CORWIN: My vote is yes, there will be some impact on the environment.

CHAIRMAN SALADINO: Dinni.

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ellen.

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur.
CHAIRMAN SALADINO: I am going to vote no. So it is three two. Can we do the five questions now?

Whether an undesirable change will be produced in the character of the -- before I read this, we are taking the application as a whole?

MEMBER GORDON: Together.

CHAIRMAN SALADINO: Both variance requests together as opposed to separating?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Okay. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance.

David?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: Yes.
CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I vote yes.

Whether the benefits sought by the applicant can be achieve by methods feasible for the applicant to pursue other than an area variance.

David?

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Diana?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I'm sorry I skipped you.

Ellen?

MEMBER NEFF: Yes.

CHAIRMAN SALADINO: And I will vote yes.

MEMBER NEFF: Did you get Arthur's vote?

MEMBER TASKER: She got it. That is all that counts.
CHAIRMAN SALADINO: Whether requesting an area variance is substantial? Mr. Corwin?
MEMBER CORWIN: Yes.
CHAIRMAN SALADINO: Diana?
MEMBER GORDON: Yes.
CHAIRMAN SALADINO: Ellen?
MEMBER NEFF: Yes.
CHAIRMAN SALADINO: Arthur?
MEMBER TASKER: Yes.
CHAIRMAN SALADINO: I will vote yes.

Whether the proposed area variance will have an adverse affect or impact on the physical and environmental conditions in the neighborhood or district.
David?
MEMBER CORWIN: I am voting yes and I want to note the word district in there and calling the Village of Greenport a district.

CHAIRMAN SALADINO: Okay. I thought it was a zoning district, but okay.
Diana?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ellen?

MEMBER NEFF: No.

CHAIRMAN SALADINO: Arthur?

MEMBER TASKER: I'm sorry. Which one are we on?

MEMBER NEFF: Five.

CHAIRMAN SALADINO: Whether the proposed variance will have an adverse affect or impact on the physical or environmental conditions of the district or neighborhood.

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: And I'm going to vote no.

Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals but not necessarily preclude the granting of the area variance.

David?

MEMBER CORWIN: Yes.
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CHAIRMAN SALADINO: Diana?
MEMBER GORDON: No.
CHAIRMAN SALADINO: Ellen?
MEMBER NEFF: No.
CHAIRMAN SALADINO: Arthur?
MEMBER TASKER: Yes.
CHAIRMAN SALADINO: And I will vote yes.

And the question of the variance, we made a motion to approve the area variance.

MEMBER GORDON: It is plural, right?
CHAIRMAN SALADINO: I thought by saying we were going to consider as a whole, but I will add the s if it makes everyone comfortable.

I make a motion to approve the area variances.

David?
MEMBER CORWIN: No.
CHAIRMAN SALADINO: Diana?
MEMBER GORDON: No.
CHAIRMAN SALADINO: Ellen?
MEMBER NEFF: No.
CHAIRMAN SALADINO: Arthur?
MEMBER TASKER: I abstain.
CHAIRMAN SALADINO: And I vote no.

Item number 7 --
MEMBER CORWIN: One question that I brought up was whether we should we moved the meetings back to 5:00. One of the problems we had, particularly in this part of the year, is making an inspection just before the meeting. If we make an inspection in front of a 6:00 meeting we have to make an inspection at 4:00. That creates a dead hour for the Zoning Board of Appeals. I haven't heard anything from any of the participants that 5:00 would be a bad time to have meetings. We had 5:00 for a while and it worked. One person was interested in an application on Fifth Avenue, had a legitimate complaint because she had work and we moved the meetings up to 6:00 to give her a chance to get out of
work. Maybe we can be a little flexible that way if somebody wants 6:00. That is a question an idea to kick around. If anybody else has an interest in 5:00.

CHAIRMAN SALADINO: I think it is nice we get to hang out for an hour or so. But I remember it was more than a couple of people and ironically those people don't seem to come anymore. I don't think Chatty--

MEMBER GORDON: Chatty would you come at 5:00?

MS. ALLEN: I am missing to be here at 5:00. So yes.

MEMBER TASKER: How about a seasonal consideration on that? Of course part of that is the darkness with the inspection. Now sunset is 4:30. That is about as late as it is going to get.

MEMBER CORWIN: That would be a solution.

MEMBER TASKER: Daylight savings time. 5:00 during standard time and 6:00
for daylight savings time.

CHAIRMAN SALADINO: The problem is, as I see it, is not so much doing the inspections while it is light. The problem came up because there was an application or applications that people were interested in and they felt they were deprived of making comment because of the hour. So what happens is -- those people are going to have that same concern because obviously they weren't retired.

MEMBER TASKER: If you can't get there by 5:00 you can't get there by 6:00 in most instances.

CHAIRMAN SALADINO: I don't remember anyone complaining about 6:00.

MEMBER TASKER: There are other avenues to present your case to the Board. Although maybe more difficult to write an extensive letter simply to do it for the possible convenience of someone's personal opinions.

CHAIRMAN SALADINO: We didn't do it
to give someone's personal convenience. We did it --

MS. ALLEN: There was a lot of people.

MR. TASKER: I am not disputing that. We are always going to be facing that, it's a bad time for me.

MEMBER NEFF: Rather than picking an informal look back at a year or forward for the next year, we are really just about scheduling our next meeting for 5:00. I think we keep that the issue and figure it out from there. 6:00 in winter seems very late. I think scheduling our next appointment for 5:00 and making a decision there for the rest of our calendar, at least for a couple of months, make sense.

CHAIRMAN SALADINO: You just voted for 6:00.

MEMBER NEFF: I am saying the proposal was for 5:00, our next meeting at 5.

CHAIRMAN SALADINO: No. David
wanted to start the discussion moving forward.

MEMBER NEFF: I am going to make a motion to make our next meeting at 5:00. And discuss the matter.

MEMBER CORWIN: We may not even have a meeting next month.

CHAIRMAN SALADINO: What is it the rapture? Do you know something?

MEMBER CORWIN: One thing we can always do is start the meetings at 5:00 and go over whatever and schedule the public hearing at 6:00.

MEMBER TASKER: That is a good idea.

CHAIRMAN SALADINO: So we are going to rescind the motion, item number 3 for the next ZBA meeting on January 16, 2018 at 6:00 p.m.

MEMBER TASKER: So moved.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.
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MEMBER NEFF:  Aye.

MEMBER TASKER:  Aye.

CHAIRMAN SALADINO:  We are going to make a new motion to schedule the new ZBA meeting for January 16th, 2018. Let's do this once. What time?  5:00.

MEMBER TASKER:  Second.

CHAIRMAN SALADINO:  At the Third Street Firehouse, Greenport, New York 11958. So moved?

MEMBER TASKER:  Second.

CHAIRMAN SALADINO:  All in favor?

MEMBER CORWIN:  Aye.

MEMBER GORDON:  Aye.

MEMBER NEFF:  Aye.

MEMBER TASKER:  Aye.

CHAIRMAN SALADINO:  Just to explain the attorney had sent electronically the Findings and Determination for 222 Manor Place. We don't have them in our package. If everybody read it we can vote on it.

MEMBER TASKER:  I haven't seen it.

CHAIRMAN SALADINO:  Okay. We will
vote on it next month.

Item number 7 is motion to adjourn.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER GORDON: Aye.

MEMBER NEFF: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: So moved.

CERTIFICATION

STATE OF NEW YORK

COUNTY OF SUFFOLK

I, Barbara D. Schultz, a Notary

Public within and for the State of New
York, do hereby certify:

The witness whose deposition is
hereinbefore set forth, was duly sworn by
me and that such deposition is a true
record of the testimony given by such
witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage; and that I am
not in any way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have here
unto set my hand.

____________________________________
Barbara D. Schultz