

1 VILLAGE OF GREENPORT
2 COUNTY OF SUFFOLK STATE OF NEW YORK
3 -----x

4 ZONING BOARD OF APPEALS
5 REGULAR MEETING
6 -----x

7
8 School House
9 Greenport, New York

10 April 19, 2016
11 5:00 P.M.

12
13 B E F O R E :

14
15 JOHN SALADINO - CHAIRMAN

16 ELLEN NEFF - MEMBER

17 DAVID CORWIN - MEMBER

18 DINNI GORDON - MEMBER

19 DOUG MOORE - MEMBER (EXCUSED)

20
21 PAUL PALLAS - VILLAGE ADMINISTRATOR

22 EILEEN WINGATE - VILLAGE BUILDING INSPECTOR (EXCUSED)

23 JOSEPH PROKOP - VILLAGE ATTORNEY
24
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1 CHAIRMAN SALADINO: We're
2 going to start the regular
3 meeting for ZBA for April.
4 It's 5:15. Present is the
5 attorney, Ms. Neff, Ms. Gordon,
6 Mr. Corwin and myself.

7 The first item of business
8 is Item No. 1. Motion to
9 accept an application for an
10 area variance, publicly notice
11 and schedule a public hearing
12 for James Gleason, 144 Central
13 Avenue; SCTM # 1001-5-1-16.1.
14 The applicant proposes to
15 install an in ground swimming
16 pool and an addition of 94.25
17 square feet. With an
18 additional 5.5 feet. For new
19 exterior entry stair, to
20 replace a covered porch and
21 existing exterior cellar door.
22 The proposed swimming pool
23 setback is 11.2 feet on the
24 north property line, requiring
25 an area variance of 8.8 feet.

1 Section 150-7c.(3a) of the
2 Village of Greenport Code
3 requires the edge of the pool
4 shall be kept a distance of not
5 less than 20 feet. From all
6 property lines, in the R-2
7 District. The proposed
8 swimming pool setback is 8.2
9 feet on the west property line,
10 requiring an area variance of
11 11.8 feet. Section 1
12 50-7c.(3a) of the Village of
13 Greenport Code requires the
14 edge of the pool shall be kept
15 a distance of not less than 20
16 feet. From all property lines,
17 in the R-2 District. The
18 proposed aggregate side yard
19 setback is 12.7 feet.
20 Requiring a 12.3 feet.
21 Combined side yard variance for
22 the new 94.25 square feet
23 addition. The variance
24 includes 5.5 feet. For new
25 exterior side entry stairs.

1 Section 150-12 A. Of the
2 Village of Greenport Code
3 requires a 25 feet. Combined
4 side yard setback in the R-2
5 District. This house is
6 located within the Historic
7 District. Plans were reviewed
8 by the Historic Preservation
9 Commission. Plans for all
10 proposed exterior changes and
11 materials were approved with
12 the exception of the metal
13 porch roof. The applicant and
14 Historic Preservation
15 Commission will continue the
16 discussion at the May meeting
17 of that Board.

18 Is the applicant here?

19 MR. RINGER: My name is
20 Kurt Ringer. I am the
21 architect for the applicant. I
22 would like to make one comment.
23 The addition 5.5 feet of
24 stairs, we actually eliminated
25 and rotated to the back of the

1 residence. So we didn't go
2 that additional 5 feet.

3 CHAIRMAN SALADINO: I think we
4 have that. I believe we have the
5 updated drawings.

6 MR. RINGER: I believe you
7 do.

8 MEMBER CORWIN: I just want to
9 note that you said on the plan
10 you're going to change your garage
11 to a pool house but you don't have
12 any interior plans or site
13 elevations for the pool house. Any
14 plumbing connections or
15 electricity.

16 MR. RINGER: Okay. We can
17 provide that.

18 CHAIRMAN SALADINO: And the
19 other thing that we would ask,
20 perhaps in another drawing, is the
21 distance perhaps from the edge of
22 the pool to the pool house and the
23 edge of the pool to the proposed
24 patio.

25 MR. RINGER: Okay.

1 Absolutely.

2 CHAIRMAN SALADINO: Anything
3 else?

4 MEMBER GORDON: The framed
5 garage is coming out? That is what
6 is being renovated?

7 MR. RINGER: Correct.

8 MEMBER GORDON: The 5 foot
9 accessory building is the same?
10 The accessory 5 foot setback? The
11 setback is 5 feet?

12 CHAIRMAN SALADINO: This is
13 preexisting.

14 MEMBER GORDON: Okay. It's
15 irrelevant. Even though everything
16 that you are doing is indoors.

17 MEMBER NEFF: Actually, I do
18 have a question. The mechanicals
19 for the proposed pool, where are
20 they? In other words, they should
21 be shown.

22 CHAIRMAN SALADINO: I believe
23 David asked for a drawing of the
24 pool house.

25 MR. RINGER: We could locate

1 it on the plan and if we need to
2 create structures to conceal it, we
3 could that.

4 MEMBER CORWIN: Just so you
5 know, we have had neighbors come in
6 and complain about noise from the
7 pumps. So that is where I am at.

8 MR. RINGER: Understood.

9 MR. PROKOP: I think what we
10 have done in the past and please
11 correct me if I am wrong, you can
12 get a gradient system and including
13 a decibel rating and how you intend
14 to back flow --

15 MR. RINGER: Absolutely.

16 MEMBER CORWIN: We all need to
17 do an inspection.

18 CHAIRMAN SALADINO: If we
19 accept the application, we're going
20 to set the time for a public
21 hearing and site inspection. And
22 if you could stake it out. The
23 pool house, I believe the HPC said
24 they were going to rule on the pool
25 house separately. You will see

1 them before you come back to the
2 Board.

3 What is the pleasure of this
4 Board?

5 MEMBER CORWIN: I will make a
6 motion to accept the application
7 for James Gleason, 144 Central
8 Avenue and the additions
9 noted.

10 MEMBER GORDON: Second.

11 CHAIRMAN SALADINO: All in
12 favor?

13 MEMBER CORWIN: Aye.

14 MEMBER GORDON: Aye.

15 MEMBER NEFF: Aye.

16 CHAIRMAN SALADINO: Aye.

17 MR. RINGER: Thank you very
18 much.

19 CHAIRMAN SALADINO: We're going
20 to set the time -- just so you can
21 leave if you want. We're going to
22 have the public hearing at our next
23 meeting at 6:00 p.m. at our
24 May 17th, and it will be at
25 6:00 p.m. It will be at Station 1,

1 the firehouse on Third Street.

2 And what is convenient for a
3 site visit?

4 MEMBER CORWIN: Let's make it
5 5:40.

6 MEMBER NEFF: We might have
7 some other site visits possibly.

8 CHAIRMAN SALADINO: 5:40.

9 MR. RINGER: Okay.

10 MEMBER NEFF: Can I ask one
11 question. We have the plans with
12 color. We have another set of
13 plans. Are the most recent ones
14 clear? Is there a date on it?
15 There is a lot --

16 CHAIRMAN SALADINO: I
17 believe the latest plans that we
18 got, I got them today. The revised
19 plans, I got them today. I am sure
20 if I got them, everybody got
21 them.

22 MEMBER NEFF: I have three
23 sets. We can figure them out
24 later.

25 MR. RINGER: We're going to

1 submit another set of plans
2 with the revisions that you
3 requested. The latest revision
4 was April 12th and they're both
5 noted on there. And we will
6 provide full scale plans.
7 Thank you.

8 CHAIRMAN SALADINO: Thank
9 you.

10 Item No. 2, Motion to accept
11 an application for an area
12 variance, publicly notice and
13 schedule a public hearing for
14 238 Fifth Ave Greenport, Inc.,
15 238 Fifth Avenue, SCTM 1001-4-8-3.
16 The applicant requests several area
17 variances required to subdivide an
18 existing lot and construct a
19 nonconforming house. This
20 subdivision will create 2 new
21 substandard lots requiring area
22 variances as follows:

23 Lot 1: The proposed
24 subdivision creates lot 1, which
25 has an area of 5,389.5 square feet.

1 Where section 150-12 (A) of the
2 Greenport Village Code requires a
3 min. Lot size of 7,500 square
4 feet, requiring an area variance of
5 2,110.50 square feet.

6 The proposed lot width is 50
7 feet. Where Section 150-12 (A) of
8 the Greenport Village Code requires
9 a minimum lot width of 60 feet.
10 Requiring an area variance of 10
11 feet.

12 The proposed lot coverage is
13 37 % (2,024 square feet). Section
14 150-12 (A) of the Greenport Village
15 Code requires a minimum of 35% lot
16 coverage for a two family house in
17 the R-2 District requiring an area
18 variance of 2% (107.75 square
19 feet).

20 Lot No. 2, The proposed
21 subdivision creates lot 2 which has
22 an area of 4,022 square feet, where
23 Section 150-12 (A) of the Greenport
24 Village Code requires a minimum lot
25 size of 7,500 square feet,

1 requiring an area variance of 3,478
2 square feet.

3 The proposed lot depth is 50
4 feet. Where Section 150-12 (A) of
5 the Greenport Village Code requires
6 a minimum lot depth of 100 feet.
7 Requiring an area variance of 50
8 feet. The proposed cottage is 15
9 feet. From the front (west)
10 property line, where Section
11 150-12(A) of the Greenport Village
12 Code requires a minimum 30' front
13 yard setback; requiring a 15 feet.
14 Front yard setback variance. The
15 proposed cottage is 10 feet. From
16 the rear (east) property line,
17 where section 150-12(A) of the
18 Greenport Village Code requires a
19 minimum 30' rear yard setback;
20 requiring a 20 feet. Rear yard
21 setback area variance. This
22 Property is not located within the
23 Historic District.

24 The applicant?

25 MS. REA: Kimberlea Shaw

1 Rea of Westervelt & Rea,
2 Shelter Island on behalf of the
3 applicant. All of the
4 variances that you have cited
5 her are not significant and
6 would create two lots that are
7 very much consistent with the
8 other lots in the neighborhood.

9 MEMBER CORWIN: I think you
10 are off track. We are just
11 accepting the application tonight
12 and I think that is what we should
13 be discussing.

14 MS. REA: Okay. We would ask
15 that the Board accept it then and
16 set it for public hearing.

17 CHAIRMAN SALADINO: The
18 problem that we have with this
19 application is that the application
20 is not complete and correct. The
21 Notice of Disapproval mentions the
22 variances needed, specifically rear
23 yard setback. On your application,
24 you don't request a rear yard
25 setback variance.

1 MS. REA: The application that
2 was submitted -- sir, I believe the
3 application that was submitted
4 asked for the appropriate
5 variances. There were some that
6 were denied by the Planning Board.
7 So it's my understanding that
8 whatever the Planning Board denied
9 and requires variances for those,
10 we are asking for those.

11 CHAIRMAN SALADINO:
12 Unfortunately the Zoning Board and
13 the code requires a 30 foot
14 setback. Your application doesn't
15 ask for that. The supplied
16 drawings ask for 10 feet. The
17 Notice of Disapproval says 15,
18 notes that.

19 MS. REA: I am just not sure.
20 What is the ZBA just not aware of
21 and what you are asking for?

22 CHAIRMAN SALADINO: Lot #2,
23 you have a proposed cottage on it.
24 The front of the cottage requires a
25 15 foot front yard setback

1 variance. The rear yard, you have
2 10 feet between the property line
3 and the house. The rear lot line
4 is required to be 30 feet from the
5 house. You don't ask for a
6 variance. The application is
7 incomplete.

8 MS. REA: We would like to
9 have that considered. Would it be
10 possible to make that verbally?

11 CHAIRMAN SALADINO: I don't
12 believe so. I am not inclined --

13 MR. PROKOP: Does somebody
14 have a copy of the application?

15 CHAIRMAN SALADINO: I do.

16 MS. REA: I am just not sure
17 what is clear here.

18 CHAIRMAN SALADINO: It's not
19 noted on the application that you
20 submitted. I don't think we should
21 be expected --

22 MS. REA: This is the rear and
23 front yard setbacks that are
24 mentioned here?

25 CHAIRMAN SALADINO: The front

1 yard setback is mentioned. The
2 rear yard is missing.

3 MS. REA: Does that really
4 render this application
5 insufficient at this time? I think
6 that the Planning Board ruled on
7 this.

8 CHAIRMAN SALADINO: Did they
9 make a ruling? They sent it to us,
10 I believe.

11 MS. REA: We will amend this
12 application then and bring it
13 before you next time. When is the
14 next meeting, sir?

15 CHAIRMAN SALADINO: May 17th
16 at 6:00 p.m. at the firehouse.

17 MS. REA: Okay. We will
18 resubmit that and ask that it be
19 considered that time and at that
20 time, accept it.

21 CHAIRMAN SALADINO: Just so
22 it's clear for the stenographer,
23 are we withdrawing this
24 application?

25 MS. REA: No. No. We will

1 supplement it at the next meeting.

2 MR. PROKOP: So my
3 recommendation would be that you
4 vote to not accept it and to be
5 resubmitted or corrected.

6 MEMBER NEFF: And my question
7 is about the proposed flag lot, the
8 proposed cottage, I don't see how
9 we can consider that proposal
10 without plans for the cottage. And
11 in a flag lot, what is the front
12 yard?

13 CHAIRMAN SALADINO: I am
14 hesitant to take any testimony.

15 MEMBER NEFF: If you want to
16 have a more complete application, I
17 think it has to include what
18 exactly the variances are requested
19 and if there is a proposal, what
20 are you proposing to build exactly?

21 CHAIRMAN SALADINO: Not to get
22 into the specifics of the
23 application, she mentions -- we
24 don't have the plans for the
25 cottage but it mentions a 800

1 square footprint, the cottage.
2 Since we're not accepting it, I
3 think the ownness is on the
4 applicant.

5 MS. REA: The building plans,
6 would be, I believe before the
7 Planning Board.

8 MR. PROKOP: No. We would
9 need at least the elevations to
10 determine it.

11 MS. REA: I think the
12 elevations have been given here.
13 They are all here.

14 CHAIRMAN SALADINO: I don't
15 have them.

16 MS. REA: We submitted them.
17 I believe we did.

18 CHAIRMAN SALADINO: We would
19 need more complete drawings.

20 MS. REA: Could you tell me
21 how complete because these are the
22 contours that were -- were required
23 by the Greenport Village Code. So
24 if these are not complete, I need
25 to know specifically --

1 CHAIRMAN SALADINO: For this
2 Board to accept the application,
3 you would have to either submit a
4 set of plans to this Board or have
5 the plans that he submitted to the
6 Planning Department, submitted to
7 this Board. This is not sufficient
8 for us. That is not to accept
9 the --

10 MS. REA: You are talking
11 about building plans after we
12 submit the application?

13 CHAIRMAN SALADINO: Right. If
14 it's accepted.

15 MEMBER NEFF: If the applicant
16 submitted --

17 MS. REA: I believe we did.

18 MEMBER NEFF: There is not a
19 proposed cottage except the word
20 proposed cottage. Here we deal
21 with setbacks and area variances.
22 And if it's important to make a
23 complete application in my view.

24 CHAIRMAN SALADINO: You're a
25 100% right, Ellen, but the ownness

1 is on the applicant.

2 MS. REA: Our submission was
3 based upon code requirements. I
4 believe e submitted everything
5 according to the code. If there is
6 something to the elevations of this
7 map, I would really like to know in
8 advance because this has gone back
9 to the surveyor on a number of
10 times and be certain that we have
11 it in accordance with the code.
12 The building elevations are not --

13 MR. PROKOP: We need to see
14 what the impact would be on the
15 neighbors, how high it's going to
16 be and how deep. The roof line and
17 things like that.

18 MS. REA: We are trying to do
19 this in accordance with the code.
20 I understand. So we will do that.

21 CHAIRMAN SALADINO: The
22 application should reflect what is
23 going to happen on the property and
24 right now, we don't.

25 MR. PROKOP: It's important to

1 have that to determine the impact.

2 MS. REA: Very well, we will
3 do that.

4 MS. MACATEE: Joanne
5 Macatee. May I just make a
6 comment here?

7 CHAIRMAN SALADINO: Not at
8 this time.

9 MS. MACATEE: ZBA cannot
10 reject this.

11 CHAIRMAN SALADINO: We are
12 rejecting the application. We have
13 no idea what is going to happen in
14 the future.

15 MS. MACATEE: My one question
16 is, regardless, the ZBA does have a
17 right to reject this completely
18 based on a lot size being 175
19 square feet and they having two
20 homes on two lots. And 15,000
21 square feet. This is only a 9400
22 square foot --

23 CHAIRMAN SALADINO: Joanne,
24 we're not going to take testimony
25 until the public hearing. To

1 answer your question, the ZBA can
2 either reject a variance or grant a
3 variance. Once we have the
4 application in hand and once we
5 have the public hearing and have
6 testimony and answers, then we will
7 vote.

8 MEMBER CORWIN: I will make a
9 motion to reject the application
10 for 238 Fifth Avenue, as presented.

11 MEMBER GORDON: Second.

12 CHAIRMAN SALADINO: All in
13 favor?

14 MEMBER CORWIN: Aye.

15 MEMBER GORDON: Aye.

16 MEMBER NEFF: Aye.

17 CHAIRMAN SALADINO: Aye.

18 Item No. 3, Motion to accept
19 an application for an area
20 variance, publicly notice, and
21 schedule a public hearing, for
22 James Olinkiewicz, 221 Fifth
23 Avenue, SCTM # 1001-4-4-29.

24 The applicant requests
25 several area variances required to

1 subdivide an existing lot and
2 construct a conforming house. This
3 subdivision will create 2 new
4 substandard lots requiring area
5 variances as follows:

6 Lot #1, The proposed
7 subdivision creates lot 1 with an
8 area of 6,587 square feet. Where
9 Section 150-12 (A) of the
10 Greenport Village Code requires a
11 minimum lot size of 7,500 square
12 feet, requiring a lot area variance
13 of 913 square feet. The proposed
14 lot width of Lot 1 is 47.82 feet.
15 Where Section 150-12 (A) of the
16 Greenport Village Code requires a
17 minimum lot width of 60 feet.,
18 requiring a lot width variance of
19 12.18 feet.

20 Lot #2, The proposed lot
21 width is 52.35 feet. Where
22 Section 150-12(A) of the Greenport
23 Village Code requires a minimum
24 lot width of 60 feet., requiring
25 a lot width variance of 7.65

1 feet.

2 The proposed combined side
3 yard is 17.9 feet. Where section
4 150-12(A) of the Greenport Village
5 Code requires a combine side yard
6 setback of 25', requiring a
7 combined side yard setback variance
8 of 7.10 feet. The property is not
9 located in the Historic District.

10 Does this Board have any
11 questions?

12 MEMBER NEFF: By reviewing the
13 application, I am looking to see
14 where it's noted, perhaps you can
15 help me, Mr. Chairman, there is a
16 building located on Lot #1 that
17 will move to Lot #2.

18 CHAIRMAN SALADINO: An
19 accessory building?

20 MEMBER NEFF: It's a building
21 that exists. I didn't see it when
22 I read it -- I read it in one place
23 and didn't see it in the
24 application.

25 CHAIRMAN SALADINO: This

1 building?

2 MEMBER NEFF: This one. This
3 one is moving to there.

4 CHAIRMAN SALADINO: Well, we
5 have not been there. My
6 understanding is, that building is
7 moved. The existing shed is
8 already moved.

9 MS. REA: That's right.

10 AUDIENCE MEMBER: That
11 building has not been moved.
12 It's still there.

13 CHAIRMAN SALADINO: There is
14 just a question of building or
15 shed. What is it?

16 MEMBER NEFF: It's a shed. I
17 am just saying, where does it say
18 that on the application?

19 CHAIRMAN SALADINO: So it's
20 our understanding that the
21 applicant wants to split this lot.
22 Preexisting house on one of the
23 lots. His proposal is to build one
24 of the lots that will need no
25 variance.

1 MS. REA: No, it will need a
2 variance.

3 CHAIRMAN SALADINO: That is
4 not what the application says.

5 MS. REA: It requires a side
6 yard setback of 25 feet. Requiring
7 a combined side yard setback.
8 There is also the variance for a
9 lot with variance of 7.65 feet.
10 And the lot width that requires a
11 variance.

12 CHAIRMAN SALADINO: What is
13 the pleasure of this Board?

14 MEMBER CORWIN: Don't look at
15 me.

16 MEMBER NEFF: My question is
17 in the applicants project
18 description, Item No. 5, states
19 proposed reconstruction to build a
20 single family residential home on
21 single lot. That is the lot. I
22 think it's Lot #1, I think. I
23 don't see a detailed plan of the
24 house. The proposed house.

25 MS. REA: They were not

1 submitted. We didn't realize that
2 was necessary.

3 MEMBER CORWIN: Lot #1 is
4 going 6,587 square feet where the
5 code requires 7500 square feet?

6 CHAIRMAN SALADINO: Right.

7 MEMBER CORWIN: Now I am
8 truing to do the arithmetic on Lot
9 #2 and I come 6,494 square feet.
10 So that would require a variance
11 too.

12 MS. REA: Our application was
13 based upon the Planning Board's
14 denial. And I believe that we used
15 the language that the Planning
16 Board used. I will check it to be
17 certain that we did. I am certain
18 that we did.

19 MEMBER CORWIN: We have a
20 little problem here. We're finding
21 more and more problems with these
22 applications and you're saying the
23 Planning Board. The Planning
24 Board, but we're the Zoning Board
25 of Appeals. Can you tell me what

1 you're finding that is
2 inconsistent. Mr. Corwin and I
3 will be glad to address it?

4 MEMBER CORWIN: I did the
5 arithmetic and I am not saying that
6 it's right but it looks to me that
7 Lot #2 is unde the 7500 square
8 feet.

9 MS. REA: I believe it's a
10 little bit over, if I am not
11 mistaken.

12 CHAIRMAN SALADINO: The
13 application states that it's over
14 --

15 MEMBER GORDON: So does the
16 survey.

17 CHAIRMAN SALADINO: I am also
18 uncomfortable with this application
19 that we don't have any plans. You
20 are asking us to okay a substandard
21 lot and you're asking for a house
22 on it and we have -- we would like
23 to see some plans. The same --

24 MS. REA: Very well. As with
25 238 Fifth, you need the plans and

1 we will submit those. We will be
2 glad to do that. I want to be
3 prepared for the next one. So what
4 this Board is saying with the
5 survey notation of 7,619 square
6 feet for Lot #2 incorrect?

7 CHAIRMAN SALADINO: I am
8 content to accept the stamped
9 survey that that lot is 7,619
10 square feet. The fact of the
11 matter is, I have a feeling that
12 we're not going to accept this
13 application because of the lack of
14 plans. Regardless what the
15 Planning Board has, we don't even
16 have a notation --

17 AUDIENCE MEMBER: I have
18 what the Planning Board said if
19 you would like me to read that
20 out for you?

21 CHAIRMAN SALADINO: No, that
22 is fine.

23 MS. REA: It's part of the
24 application.

25 MEMBER GORDON: We have their

1 language.

2 CHAIRMAN SALADINO: You did
3 not have house plans. We did not
4 submit those. We didn't know that
5 it was necessary. On prior
6 applications, we had submitted
7 house plans. A previous
8 application that was withdrawn.

9 MEMBER CORWIN: To correct
10 what I had said, I had left 18 feet
11 out.

12 MS. REA: Okay. So it's
13 correct. Good. Is there anything
14 else that the Board needs to see so
15 that we can be sure that it's
16 complete for you to be considered
17 for the next time?

18 MR. PROKOP: When they went to
19 the Planning Board they had the
20 initial application, which I don't
21 believe -- requires one survey
22 showing both lots. I don't think
23 it included separate surveys for
24 each of the properties -- the
25 proposed lots. So what this Board

1 will be doing is granting relief, I
2 think what the applicant has to do
3 is provide -- they did provide this
4 one survey but also provide
5 individual surveys for each of the
6 lots.

7 MS. REA: There isn't any
8 requirement anywhere in the code
9 that I am aware of.

10 MR. PROKOP: It's in the
11 subdivision regulations because in
12 effect what you're doing -- your
13 subdivision was denied by the
14 Planning Board. A sketch plan --

15 MS. REA: That's right.

16 MR. PROKOP: So we really have
17 a survey of both of the properties.

18 MS. REA: Is there a
19 requirement in the Greenport
20 Village Code that requires two
21 surveys?

22 MR. PROKOP: Yes.

23 MS. REA: Okay. So you need
24 that as well?

25 MR. PROKOP: Please. For both

1 applications. There is just too
2 many things going on in this little
3 rendering to try and figure out the
4 application. And also the
5 elevations of the building.

6 MS. REA: You know, I am just
7 questioning this. I understand
8 what you are saying and the scale.
9 Although what we provided is the
10 scale that is required by the
11 Village.

12 CHAIRMAN SALADINO: Actually,
13 it's not. To build on any lot, you
14 would need a complete set.

15 MS. REA: I am not talking
16 about the plans. I am talking
17 about the survey. When we submit
18 the final subdivision plans to the
19 county assuming that they were
20 granted, it would be the one
21 survey. So I am not sure why you
22 would need two, and the County,
23 that's going to be the legally
24 controlling --

25 MR. PROKOP: Because in our

1 subdivision code, if I am
2 incorrect, which I don't think I
3 am, I apologize. But what happens
4 was, when you went to the sketch
5 plan level which doesn't require
6 separate surveys for the lot. You
7 made it to the next level, which
8 requires separate surveys. And
9 because you were rejected at the
10 sketch plan level, you did not
11 submit separate surveys. Now this
12 Board, we're stepping in as the
13 Planning Board and looking at your
14 proposal to subdivide a
15 nonconforming lot. In order to do
16 that properly, we should have that
17 next level of documentation.

18 MS. REA: Could you give me
19 that citation later? I won't
20 trouble you later.

21 MR. PROKOP: It's in the code

22 --

23 MS. REA: Fair enough. Is
24 there anything else that this Board
25 requires when we resubmit?

1 CHAIRMAN SALADINO: I believe
2 we have covered it. The
3 application has to be submitted 25
4 days before the next meeting. I
5 also have one more question, we
6 were all supplied with a map of the
7 Village of certain houses. Do you
8 want us to make that part of the
9 application?

10 MS. REA: I think that was
11 provided for another application
12 and we will make that part of our
13 comments for supporting our
14 application. We will refer to it
15 then.

16 CHAIRMAN SALADINO: Okay.

17 MS. REA: We will address that
18 in time for the public hearing. I
19 think that is where it belongs
20 probably.

21 CHAIRMAN SALADINO: Can I get
22 a motion on this?

23 MEMBER CORWIN: I make a
24 motion that we reject the
25 application for 121 Fifth Avenue,

1 SCTM #1001-4-4-29 for changes as
2 noted with the application will be
3 resubmitted for the next meeting at
4 May or if time does not allow, for
5 the meeting in June.

6 CHAIRMAN SALADINO: Is there a
7 second?

8 MEMBER GORDON: Second.

9 CHAIRMAN SALADINO: All in
10 favor?

11 MEMBER CORWIN: Aye.

12 MEMBER GORDON: Aye.

13 MEMBER NEFF: Aye.

14 CHAIRMAN SALADINO: Aye.

15 Thank you.

16 Item No. 4, is a continued
17 Public Hearing on the application
18 for of SAKD Holdings, LLC.

19 Can you just state your name
20 again?

21 MR. PENNESSI: Daniel
22 Pennessi, president of SAKD. We
23 can certify that we sent out the
24 re-notices.

25 CHAIRMAN SALADINO: The public

1 hearing is open. We are at the
2 point for the interpretations. The
3 Building Inspector is not here
4 tonight. The Building Department
5 is here. We both decided you
6 conceded interpretation No. 1?

7 MR. PENNESSI: Yes. Good
8 evening, Mr. Chairman, members of
9 the Board. I would like to clarify
10 after having reviewed the minutes
11 and I apologize that we did not do
12 it last time. And I would like to
13 give you an idea of what has
14 transpired since the last meeting.
15 As you know, this is our third
16 public hearing on this application,
17 fourth appearance before the
18 Zoning Board. We had initially
19 submitted Site Plan approval by
20 the Planning Board. And what we
21 had been asking for is a
22 simultaneous review by both boards
23 in order to proceed because of the
24 various overlapping issues. We had
25 submitted -- as a result, we had

1 submitted formal site plan approval
2 for the application on
3 March 3, 2016 in time for the
4 April Planning Board meeting. It's
5 my understanding that the Planning
6 Board decided off the record that
7 we would not be on the agenda for
8 the site plan approval until after
9 the Zoning Board of Appeals, until
10 all such items have had a decision
11 made on them. As a result, we
12 would ask that if you could close
13 the public hearing tonight and
14 continue to make decisions on the
15 interpretations of the variances.
16 The reason being is that we're
17 unable to continue with the
18 simultaneous review. We would love
19 to proceed with the approval. And
20 it's hard to decouple the
21 interpretations from the variances
22 in order to proceed with the
23 Planning Board. And that is kind
24 of where we are now. I did make a
25 statement that we would concede to

1 keep the public hearing open but I
2 don't know -- I would like the
3 Zoning Board to tell me what would
4 change for the public to respond
5 differently based on the decision
6 of the interpretation?

7 CHAIRMAN SALADINO: Well,
8 it would be up to the State if
9 they would like to comment -- we
10 would like to wait for their
11 comments. We have no idea on what
12 they would have to say.

13 MR. PENNESSI: On the State
14 that is not really a decision that
15 will impact the variances. The
16 Village and the Zoning Board has
17 the authority to make on the
18 variances. What the State may have
19 on the decision would be the Site
20 Plan and methods of construction,
21 but it wouldn't have any bearing on
22 what the Zoning Board decides on
23 the interpretations for the
24 variances. They have received this
25 notice as well as other agencies as

1 a result of this coordinated
2 review, as the Zoning Board
3 identified themselves as lead
4 agency for procedural purposes.
5 That SEQRA process doesn't end with
6 the completion of the Zoning
7 Board's piece here. That
8 coordinated review will continue
9 through site plan approval. And
10 certainly that site plan approval
11 may be continuous for other agencies
12 to respond.

13 CHAIRMAN SALADINO:
14 Mr. Pennessi, I am not going to
15 guarantee you that we're going to
16 close the public hearing tonight.
17 We will discuss it and review what
18 you have to say and we will review
19 on the interpretations. And if the
20 Board sees fit, we will close the
21 public hearing.

22 MR. PENNESSI: I appreciate
23 that and we are prepared to discuss
24 all these items. Understood. I
25 just wanted to put on the record

1 the request. We are prepared to
2 discuss the interpretations and the
3 variances if we have time tonight.
4 So we did decide after speaking
5 with the Building Department
6 initially that we would forgo
7 seeking an interpretation on the
8 lot coverage, which leaves us with
9 parking, loading and height. What
10 I would request -- how would you
11 prefer to go through these?
12 Would you like me to give my
13 position on all three or break it
14 up --

15 CHAIRMAN SALADINO: Well, we
16 would like to hear what you have to
17 say. We would like to hear from
18 the Village also, the Building
19 Department and perhaps the
20 attorney. And if the Board
21 decides, you can speak to all three
22 and then they could speak to all
23 three and we can vote on all three
24 at a time or separate. We can do
25 it one at a time and I think it

1 would be better

2 MR. PENNESSI: Sure.

3 MEMBER GORDON: I have a
4 question. Is your position
5 basically going to be what you
6 stated in your letter of
7 December 31st?

8 MR. PENNESSI: Yes.

9 MEMBER GORDON: I don't know
10 how carefully everybody else has
11 ready them but -- that letter, but
12 it certainly sets out, what I
13 think, your position on the
14 principle points and what they are.
15 If they have changed, I guess I
16 would like to know how that has changed
17 in the last few months? As opposed
18 to the tedious review?

19 MR. PENNESSI: I guess the
20 response is, the basis of the
21 positions have not changed.
22 However, as a result of the review,
23 we have gone ahead and expanded the
24 reasons why we want interpretations
25 and should be adopted by the Board.

1 For example, we have gone ahead and
2 engaged a planning engineer. So I
3 would like to get into that. In my
4 mind, the loading and the parking
5 are intertwined. And I would --
6 maybe the height we can discuss
7 first. It's an --

8 CHAIRMAN SALADINO: I am not
9 sure I would agree, the parking and
10 the loading. Why?

11 MR. PENNESSI: Well, we have
12 gone ahead and looked at the design
13 and we believe we -- if the Board
14 is not inclined to grant our
15 interpretation for the variance, we
16 have considered alternative plans
17 to include a loading area that
18 would reduce the parking on the
19 site that is currently proposed.

20 CHAIRMAN SALADINO: Do you
21 have it?

22 MR. PENNESSI: No, not yet.

23 MR. PROKOP: The last time
24 that we got together on this for
25 substantial discussion, which I

1 think part of this refers to, one
2 of the things that came up was that
3 there was a prior decision by the
4 Board, which interpreted the issue
5 that you are raising and
6 interpreted in favor of what the
7 Building Inspector said. That
8 there is a parking requirement. So
9 how did that change from February
10 to now?

11 MR. PENNESSI: Well, if you
12 would like to get into parking
13 right now, we certainly can. At
14 the last meeting, I had mentioned
15 that we submitted a FOIL request
16 for those resolutions. And I
17 have here, a FOIL request for which
18 we asked for a copy of all
19 applications made to the Planning
20 Board or the Zoning Board of
21 Appeals and all resolutions and
22 minutes related thereto for a
23 proposed lot development that is
24 the property that we are talking
25 about here. I never received any

1 such resolution or evidence that
2 this Board actually made a
3 determination that the off-street
4 parking we are relying on did not
5 apply to this property. At the
6 last meeting, I did at the last
7 meeting, re-request a copy of that
8 on the record. It was not
9 forthcoming. So I don't believe
10 that the Zoning Board has made a
11 decision on this property that has
12 an off-street parking requirement
13 based on a prior application or
14 resolution. And I would ask that
15 the Village deliver that, nearly
16 immediately. It significantly
17 impacts this application.

18 CHAIRMAN SALADINO: I don't
19 know. I don't know why if there is
20 an interpretation why it wasn't
21 delivered. I can't answer that.

22 MR. PENNESSI: As a result, I
23 would consider this a matter of
24 first impression by the Board for
25 this property. And I think it

1 should be reviewed as such.

2 CHAIRMAN SALADINO: I would
3 be willing to hear that. I would
4 hear what you have to say. To hear
5 a response from the Building
6 Department and make a decision -- I
7 would ask the Board and we would
8 make a decision since there was no
9 prior decision.

10 MR. PROKOP: It's in the
11 records of the -- there was a
12 project where we denied -- we
13 determined that there was a parking
14 requirement. They obtained
15 off-site parking. It was off the
16 street and it was off-site.

17 CHAIRMAN SALADINO: If he has
18 made two FOIL request and we can't
19 provide the information, I am not
20 sure what this Board's
21 responsibility to the applicant.

22 MR. PROKOP: Do you have a
23 copy of the receipt?

24 MR. PENNESSI: I have this
25 copy but it's written on. I can

1 get you a clean copy.

2 MR. PROKOP: It's okay.

3 CHAIRMAN SALADINO: I would
4 ask the Board, are we going to wait

5 --

6 MR. PROKOP: We don't FOIL
7 ourselves.

8 MEMBER GORDON: I think we
9 should move this along and treat
10 this as a matter of first
11 impression.

12 CHAIRMAN SALADINO: I agree.

13 MR. PENNESSI: Would you like
14 to start with height?

15 MEMBER CORWIN: Let's move
16 this along. What is your position
17 on height and then let's ask
18 anybody in the audience and then
19 let's ask ourselves.

20 MR. PENNESSI: So I am aware
21 of the prior decision on a
22 determination on how -- where the
23 height is measured to. And our
24 request is to ask the Board to
25 reconsider what is the height. So

1 the Zoning Code requires the
2 building to be no greater than two
3 stories or 35 feet in height.
4 According to the code, height is
5 the vertical distance measured from
6 the road to the highest point of
7 the roof. And this proposed
8 project -- the focus is on the
9 definition of roof. This
10 proposed project has a height to
11 the parapet wall of 35 feet. That
12 is above the horizontal closure of
13 the roof of the building. The
14 architect Tom Pedrazzi is here if
15 the Board would like to get more
16 specific. So essentially there is
17 roof that closes the building.
18 Then there is a parapet wall, which
19 is higher. So the height of the
20 roof and the parapet would be in
21 compliance with the application.
22 Beyond the 35 foot height
23 limitation is a safety fence for
24 the proposed roof deck at 36 feet 9
25 inches. The mechanical equipment,

1 HVAC units and are at 36 feet 11
2 inches. The proposed trellis
3 around the roof deck at 42 feet
4 9 inches. And then in order to
5 access the roof deck, we're
6 proposing to have the elevator and
7 stairwell go to the roof, which
8 requires a bulkhead, which has a
9 height of 46 feet 8 inches.
10 Clearly some of those items are not
11 considered roof. Our question is,
12 what is -- how is the roof defined
13 for these purposes and of course
14 depending on that determination, we
15 would be seeking the variances for
16 those specific variances. As I
17 mentioned the last time on this
18 particular issue that we would not
19 be seeking a 46 foot 8 inch total
20 clearance, which would enable us to
21 put another floor on the roof. Not
22 what we're requesting. Those
23 additional height limitations are
24 specifically for those items.

25 MEMBER CORWIN: It's the

1 enclosure needed for the elevator
2 and it's some sort of fence or
3 guardrail around the building --

4 MR. PENNESSI: And the
5 trellis.

6 MEMBER CORWIN: I don't
7 remember the trellis.

8 MR. PENNESSI: So what is
9 being proposed up there is that the
10 roof deck would be used by the
11 hotel guests. We have significant
12 interests from a fairly well known
13 restaurant to come in and utilize
14 the area. They have expressed the
15 interest of maybe having a fresh
16 garden up there. So that is the
17 way it would be used. We would
18 need to put security fencing around
19 those areas. So the people
20 wouldn't get to portions of the
21 roof deck that they shouldn't be
22 going to for safety purposes. And
23 then the trellis is just an
24 architectural detail.

25 MEMBER GORDON: It seems to

1 me, if you have a pretty good case
2 if you took out the protections of
3 the roof deck. If you eliminate
4 the roof deck, you eliminate three
5 of these problems. They are minor
6 problems but they're still
7 problems. With the bulkhead for
8 the stairwell for the elevator to
9 the roof deck. That is the big
10 thing. The 48 feet, as opposed to
11 the 35 feet. So that is the
12 problem. And you say that the New
13 York State Building Code does not
14 consider a stairwell or elevator
15 bulkhead and shaft as part of the
16 roof. So here I would like to turn
17 to Mr. Prokop. Is that your
18 understanding as well? Because it
19 seems to me if we get rid of the
20 problems of the roof deck and we
21 just don't have the roof deck. And
22 all you have is the elevator shaft
23 and that's correct state law, then
24 you have a very good case.

25 MR. PENNESSI: Just to be

1 specific, the request and perhaps I
2 wasn't clear. The request is that,
3 if we can determine the definition
4 for a roof, and if it is in fact
5 the flat roof of the building or
6 even the top of the parapet wall,
7 we would be in compliance with this
8 portion of the code. Not
9 withstanding the fact that certain
10 elements that are not roof exceed
11 the 35 feet.

12 CHAIRMAN SALADINO: From
13 reading the building code, when I
14 had first read it, the safety
15 railing, the parapet and I believe
16 the mechanical equipment weren't
17 taken into consideration. The
18 bulkhead and the elevator shaft and
19 the stairway were.

20 MR. PROKOP: The stairway has
21 a roof and the elevator shaft has a
22 roof, then that is the highest
23 point of the roof.

24 MR. PENNESSI: That is for
25 interpretation. That is what we're

1 asking, right? That is what we're
2 asking the Board to make a decision
3 on. That that is in fact what the
4 Village Code says.

5 MR. PROKOP: It's the crown of
6 the highest roof not --

7 MR. PENNESSI: It's the crown
8 of the road. The code says from
9 the road to the roof.

10 MR. PROKOP: The highest point
11 of the roof is not the roof that
12 you want us to use. The highest
13 point of the roof is either the one
14 that covers the elevator shaft and
15 the stairway. And I am saying that
16 without looking at the plans. Just
17 visualizing what you're talking
18 about.

19 MR. PENNESSI: I would say
20 that the roof of the elevator shaft
21 or the stairwell, bulkhead is not
22 in fact of the proposed building.
23 The roof of the proposed building
24 is the horizontal membrane and
25 enclosing the building, which is

1 what the New York State Building
2 Code describes a roof as. And that
3 an elevator bulkhead would exceed
4 the height of the roof and not be
5 considered a roof for purposes of
6 determining the building.

7 MR. PROKOP: Based on what I
8 am hearing, you are really on
9 dangerous ground with this -- what
10 I am looking at what is a potential
11 fourth floor because you put on the
12 record a number of uses for this
13 fourth floor, which I guess you are
14 calling a roof deck. And tonight
15 you said it was an organic garden
16 --

17 MR. PENNESSI: The potential
18 tenant has expressed interest in
19 using it for that. The restaurant
20 tenant suggested putting boxes up
21 there with herbs and vegetables.
22 They would not be putting anything
23 on the trellis. It's not a full
24 building floor. The plans were
25 submitted showing a roof deck that

1 is much smaller of the entire roof
2 of the building.

3 MR. PROKOP: Just because it's
4 one that I know of. I think Smith
5 and Walinsky's has an eating area
6 on the upper floor or outside deck.
7 It has a restaurant that goes into
8 an eating area and upper deck.
9 Smith and Walinsky would never have
10 told the Building Department of the
11 City of New York that it's a roof
12 deck with organic garden boxes and
13 trellises and started using it as
14 restaurant seating or any other
15 kind of seating. Who are the
16 people going to be up there and
17 what is it going to be used for?

18 MR. PENNESSI: As we have said
19 on numerous occasions, it's being
20 proposed for a hotel guests only.
21 More recently, we have been asked
22 by the proposed tenant if they
23 would be able to have an employee
24 or two walk up there to maintain
25 garden boxes for the restaurant.

1 MEMBER GORDON: How do you
2 deal with what Mr. Prokop suggested
3 that it really amount to a fourth
4 floor?

5 MR. PENNESSI: Respectfully, I
6 couldn't disagree more. It's not a
7 fourth floor on the building. It's
8 simply a means of ingress and
9 egress. There is no rooms. There
10 is not going to be proposed
11 restaurant tables. It's a passive
12 recreation area. And the only way
13 to have it used as a deck area, the
14 expansive views that it's afforded
15 --

16 MEMBER GORDON: So people
17 couldn't sit down?

18 MR. PENNESSI: They could sit
19 down but they're not being served
20 by the restaurant.

21 MEMBER GORDON: But if they're
22 sitting down, they have to have
23 chairs. Then they have to have
24 some place to put their drinks.

25 MR. PENNESSI: Sure. What we

1 have proposed in the design is a
2 propane fire pit.

3 MEMBER GORDON: It's getting
4 very busy up there.

5 CHAIRMAN SALADINO: It's just
6 hard to imagine that on a nice
7 evening, looking at the water and
8 sitting around a fire pit, that
9 perhaps a restaurant, a high-end
10 North fork restaurant won't decide
11 to bring food up there. Now it
12 turns into an extension of the
13 restaurant.

14 MR. PENNESSI: That is
15 something that the Village has the
16 control. We're trying to work with
17 the Village here. People would
18 love to access it. It was my
19 understanding that that was
20 something that the Village doesn't
21 want but if that's something that
22 the Village would be interested in
23 --

24 CHAIRMAN SALADINO: No. It's
25 hard for me to listen to you and

1 hear this is our intention and this
2 is what we expect to happen and
3 then something totally different
4 happen.

5 MR. PENNESSI: Depending on
6 what the approvals state, I would
7 be in risk of CO violations if
8 someone was using it in a way that
9 they should not be using it.

10 MEMBER CORWIN: The problem is
11 with the statements that you're
12 making, in my past experience,
13 people get a variance to do
14 whatever and then they go and start
15 serving the meals and the drinks
16 and start having the parties up
17 there and I have complained to the
18 Building Department and they have a
19 hard time enforcing it.

20 MR. PENNESSI: It's not only
21 as a matter of using the space in
22 violation of the approval, the size
23 of the roof is designed as such,
24 you can't have a public assembly
25 area up there. We're not designing

1 this for maximum occupancy. We're
2 talking about 16 hotels rooms that
3 would have --

4 CHAIRMAN SALADINO: I am not
5 sure that is what David suggested.
6 That's it's going to be a public
7 use but you're going to have 16
8 hotel rooms and presumably you're
9 going to have at least 16 guests.
10 And you say it is for guest use.
11 There are scenarios where the
12 entire hotel might be taken over by
13 one particular party and that party
14 wants to hang out on the roof. To
15 be fair to you, that's --

16 MR. PENNESSI: My only point
17 is suggesting that, it's just
18 another way of how it's going to be
19 used. We have the approvals that
20 will bind us how we can use it. We
21 have the elements of how we can use
22 it. We have the fire department on
23 the maximum occupancy. If people
24 start to use it in violation of all
25 of those things, we would have a

1 party. We do think it would be a
2 nice addition.

3 CHAIRMAN SALADINO: I have --
4 my concern is not the mechanicals
5 going up 35 feet or the wall going
6 up 35 feet.

7 MR. PENNESSI: The parapet
8 wall.

9 MR. PEDRAZZI: Tom
10 Pedrazzi, architect. The
11 parapet is above 3 foot above
12 the roof. We needed an
13 additional fence of 42 inches
14 in a public area or a
15 guardrail. We were doing some
16 studies on how we can do that.
17 This was the one that we had
18 thought about previously. We
19 are trying to solve this area.
20 We would probably do a mansard
21 roof and soften up those
22 corners. We added this little
23 piece. This is pretty spot on.
24 Our software is very
25 complicated and complex and

1 gives us every true renderings.
2 All 3-D models. That is the
3 bulkhead.

4 CHAIRMAN SALADINO: If you
5 want to refer to the application,
6 that A0103. There is an elevation
7 showing the height of each element
8 over 35 feet.

9 MEMBER CORWIN: Listen, we can
10 discuss this all night, Mr.
11 Chairman. I would ask you to call
12 on the audience and see if they
13 have anything to do to this and
14 then I would like to make a motion.

15 CHAIRMAN SALADINO: This is
16 for the height. Is there a member
17 of the audience that would like to
18 make an interpretation for the
19 height?

20 MR. REED: The rendering is
21 beautiful. I am Mike Reed, 430
22 Front Street. Now my only
23 question, are you putting -- this
24 here --

25 MR. PEDRAZZI: This is 35

1 feet.

2 MR. PENNESSI: This is a
3 different rendering. Tom has been
4 working on softening the facade.
5 This is the fencing. This is going
6 to be set off back. So you will
7 never see it.

8 MR. REED: Sunk in here then?

9 MR. PEDRAZZI: This is going
10 to be back here.

11 MR. PENNESSI: The height from
12 this wall of the theater is 45
13 feet. So the only element that
14 would exceed the wall of the
15 theater, is this, the bulkhead.
16 A103 shows the dimensions of the
17 elevator and the roof of the
18 building.

19 CHAIRMAN SALADINO: Right now,
20 we're concerned with the definition
21 of the roof. I would ask that the
22 Building Department -- can we hear
23 from the municipality? Can we hear
24 the specifics?

25 MR. PALLAS: I am going to be

1 totally honest. I don't know the
2 specifics. I know the roof of the
3 equipment, that was the issue.

4 MEMBER NEFF: Isn't there a
5 proposed gazebo --

6 MR. PEDRAZZI: This is it.

7 MEMBER NEFF: And there would
8 be shading above that?

9 MR. PEDRAZZI: Architectural
10 pergola. It's an open roof.

11 CHAIRMAN SALADINO: Does the
12 attorney have anything to add?

13 MR. PROKOP: No. If I said
14 anything, I think -- I know the
15 Building Inspector is the code
16 official of the Village and she
17 rendered an interpretation of the
18 code based on that --

19 CHAIRMAN SALADINO: A
20 decision.

21 MR. PROKOP: Right. A
22 decision based on that. Her
23 position as the code officer of the
24 Village. And I wouldn't say
25 anything that contradicted -- this

1 is not really law. This is New
2 York State Code that she is
3 certified to apply.

4 MR. PENNESSI: We are not
5 asking you to interpret the
6 building code.

7 CHAIRMAN SALADINO: No. The
8 Building Inspector made a decision
9 in the Notice of Disapproval and it
10 would be up to us to other agree
11 with that or agree with you. Isn't
12 that what we are doing.

13 MR. PENNESSI: If you could
14 just give me a second?

15 CHAIRMAN SALADINO: Sure.

16 MR. PENNESSI: Because I think
17 it's important to make sure that
18 everybody is familiar with what
19 decision the Zoning -- the Board is
20 inclined to rely on a prior
21 decision that was made in
22 connection with the Harbor Front
23 End. We should all be clear on
24 what the decision was.

25 CHAIRMAN SALADINO: Well, I

1 don't have it in front of me but it
2 was my understanding that
3 interpretation affirmed that they
4 would need a variance and also to
5 comply with the 35 feet.

6 MR. PENNESSI: What elements
7 have to comply with the 35 foot?
8 That's the issue.

9 CHAIRMAN SALADINO: I am not
10 sure.

11 MEMBER CORWIN: We started out
12 with what is called a widow's
13 watch, which was much higher. And
14 apparently that was kind of a
15 stumbling block. They took that
16 out.

17 MR. PENNESSI: I do believe
18 they eliminated that. It was a
19 usable interior area of the hotel
20 that was going to exceed 35 feet
21 and it was going to be imperative
22 to the project. They eliminated
23 the use of that area of the hotel
24 to get the 35 feet --

25 MEMBER CORWIN: They lowered

1 the number of units too.

2 MR. PROKOP: See, you're not
3 just asking us to overlook the roof
4 over the stairway and the elevator
5 bulkhead. You are asking us to
6 also overlook the whole area over
7 the gazebo also? Is that what is
8 happening here?

9 MR. PENNESSI: I am not asking
10 the Board to overlook anything.
11 What we are asking the Board to do
12 is make an interpretation of the
13 definition of roof in the Village
14 Zoning Code, which we contend is
15 the flat roof of the building which
16 is below the 35 feet. And as a
17 result, the elements that we have
18 described which include the parapet
19 wall, which is to comply with the
20 security regulations. The fencing,
21 the trellis above the roof deck and
22 the mechanical equipment and the
23 elevator/stairwell shaft, does not
24 in fact need a variance because
25 those items do not constitute the

1 roof the building.

2 MR. PROKOP: We are not
3 talking about a 5x5 structure.
4 You're talking about 20% of the
5 roof. You are just selecting a
6 roof that you want us to use as a
7 basis. It's actually is a roof
8 structure as is a gazebo. It's not
9 really an interpretation. You are
10 just asking us to pick the lower
11 roof and said why don't we use the
12 higher one.

13 MR. PENNESSI: That is what
14 we're asking the Board to interpret
15 and our position is in reliance to
16 the New York State Building Code,
17 which defines a square roof as a
18 horizontal portion of the roof,
19 which serves as the top closure of
20 this building. And that it doesn't
21 intact include the bulkhead and the
22 shaft. That is what we are asking
23 the Board to determine.

24 MEMBER CORWIN: I know what I
25 would like to say. I would like to

1 move it along.

2 CHAIRMAN SALADINO: We can
3 make a tentative interpretation and
4 then it would be and then we could
5 vote on this decision. I am going
6 to make this motion that I will let
7 the Board vote. We will -- my
8 motion is going to be that we
9 tentatively deny the applicants
10 appeal contingent upon the Village
11 Attorney drafting a written
12 resolution of our decision for our
13 next meeting and the ZBA adopting
14 that resolution with any
15 modifications at the next meeting.
16 It's the opinion that the applicant
17 has failed to comply or offer any
18 convincing evidence in support of
19 the request for interpretation or
20 to support any position contrary to
21 the denial's issued by the Building
22 Inspector. The Zoning Board
23 determines that with respect to the
24 interpretation in Notice 1, the
25 section 150-2, the Building

1 Inspector is correct in denying
2 this application with respect to
3 that point and that a variance is
4 required. So moved.

5 MEMBER CORWIN: I second the
6 motion.

7 MEMBER NEFF: Your motion is
8 not just for building height; is
9 that correct?

10 CHAIRMAN SALADINO: It's about
11 the building height.

12 MEMBER NEFF: It's only about
13 that. Okay. Thank you.

14 MEMBER GORDON: I am going to
15 vote for the motion. I want to say
16 that I would have voted for it if
17 it were just -- I think the
18 definition of roof is the one that
19 I would accept but only if it were
20 -- included only a shaft.

21 CHAIRMAN SALADINO: So there
22 is a motion and it's seconded. So
23 we're going to vote. First we will
24 do SEQRA. We will -- the ZBA is
25 lead agency.

1 MR. PENNESSI: We will
2 eliminate the trellis if that is
3 causing concern. The safety
4 fencing -- the parapet is within
5 the 35 feet and that is --

6 CHAIRMAN SALADINO: Yes.

7 MR. PENNESSI: The security --

8 CHAIRMAN SALADINO: We have a
9 motion and it's seconded. We are
10 going to vote and then we will talk
11 about that depending on how the
12 vote goes for the variance.

13 MR. PENNESSI: Unless the
14 Board would entertain another vote
15 on the variance if we were to
16 eliminate the trellis --

17 MEMBER CORWIN: I don't think
18 those are your issues.

19 CHAIRMAN SALADINO: I don't
20 believe so either. I am going to
21 call the vote. Then if the
22 applicant changes when we discuss
23 the variance -- so.

24 MEMBER NEFF: Can you just
25 repeat the motion? I apologize.

1 CHAIRMAN SALADINO: Would you
2 like me to repeat it?

3 MEMBER NEFF: Actually, if you
4 could repeat the very first part of
5 it.

6 CHAIRMAN SALADINO: The ZBA
7 moves to tentatively deny the
8 applicant's appeal contingent upon
9 the Village Attorney drafting a
10 written resolution of our decision
11 for our next meeting and the ZBA
12 adopting that resolution with any
13 modifications at the next meeting.
14 This is to get the decision in. So
15 we don't have to draft a decision
16 wording tonight.

17 MEMBER NEFF: We are talking
18 about the interpretation of height
19 only; right?

20 CHAIRMAN SALADINO:
21 Interpretation regarding height
22 limitations. We made that Item No.
23 1.

24 MEMBER NEFF: Okay. I just
25 didn't hear that.

1 CHAIRMAN SALADINO: Did I do
2 SEQRA?

3 MR. PROKOP: I am looking.
4 Just one second. I think that an
5 interpretation is a Type II Action.
6 So as part of the motion, you can
7 determine that the interpretation
8 is a Type II action. Amend the
9 motion to determine that this is a
10 Type II action for purposes of
11 SEQRA. If we proceed to a
12 variance, we will have to have a
13 separate variance review. You know
14 what, I will handle it in a written
15 decision. Because it's a Type II,
16 we will adopt it as part of the
17 written decision.

18 CHAIRMAN SALADINO: Okay. I
19 will call the roll. Mr. Corwin?

20 MEMBER CORWIN: Yes.

21 CHAIRMAN SALADINO: Ms.
22 Gordon?

23 MEMBER GORDON: Yes.

24 CHAIRMAN SALADINO: Ms. Neff?

25 MEMBER NEFF: No.

1 CHAIRMAN SALADINO: And I am
2 going to vote, yes.

3 Mr. Moore is not here. We
4 will move on? Your choice.

5 MR. PENNESSI: Is it the
6 Board's choice to proceed with all
7 the interpretations?

8 CHAIRMAN SALADINO: That's
9 fine.

10 MR. PENNESSI: Okay. The
11 loading berth -- the Village Code
12 requires one loading area for each
13 25,000 square feet livable area.
14 Our position is that the code does
15 not state that it's for each 25,000
16 square feet livable floor area or
17 portion thereof. If they did, then
18 the results would be that a 1,000
19 square feet building would require
20 a loading berth. It requires
21 dimensions of 12 feet wide, 31 feet
22 long. It would seem impractical to
23 require a loading berth having
24 those dimensions for a building
25 less than 25,000 square feet of

1 floor area. So our request for an
2 interpretation is for this building
3 being less than half of the livable
4 floor area, if by code, requires a
5 loading berth. We would say that
6 it does not.

7 CHAIRMAN SALADINO: Well, does
8 the Building Department have
9 anything to say?

10 MR. PALLAS: That is why we
11 said what we have to say.

12 CHAIRMAN SALADINO: I don't
13 know how you could say you don't
14 require a loading berth.

15 MR. PENNESSI: We don't have
16 25,000 square feet.

17 CHAIRMAN SALADINO: But it's
18 for each 25,000 square feet.

19 MR. PENNESSI: I agree.

20 CHAIRMAN SALADINO: So from 1
21 to 24,999, you would need one
22 loading berth. From 25,000 and on,
23 you would need another one.

24 MR. FELPS: Bryan Felps, from
25 Felps & Associates, 4400 Veterans

1 Memorial Highway. I represent the
2 owners of Stirling Commons.

3 MEMBER CORWIN: Let me ask you
4 a question. Obviously, there is
5 going to be a loading. If you get
6 a restaurant, there is going to be
7 trucks going in there. More trucks
8 going in there for hotel rooms.
9 Your retail space is going to be
10 minimal, but certainly there will
11 be trucks. There will be loading
12 going on in that space. Right now,
13 how are you going to handle that?

14 MR. PENNESSI: There would be
15 deliveries, certainly. And I
16 should note that based on
17 discussions with the Building
18 Department, we have revised the
19 number of calculations for seats
20 for the restaurant. It was 80. We
21 are now determining that there is
22 room for 58. There would be
23 deliveries. They would use the
24 parking area behind the hotel
25 without the need for a loading

1 area.

2 MEMBER CORWIN: So what that
3 would mean is, your 12 parking
4 places, if you have all your guests
5 that are parked in those 12 parking
6 places, you have no way to load
7 unless you throw somebody out of
8 their parking place?

9 MR. PENNESSI: Perhaps move.
10 It would be rather limited
11 deliveries. Perhaps we can work on
12 when deliveries made.

13 CHAIRMAN SALADINO: The
14 portion of the code, you're going
15 to have a restaurant and a hotel,
16 which kind of makes it a mixed use.

17 MR. PENNESSI: Absolutely.

18 CHAIRMAN SALADINO: Is it the
19 standard less, for a mixed use?

20 MR. PENNESSI: For a loading
21 zone?

22 CHAIRMAN SALADINO: Yes.

23 MEMBER CORWIN: Well, what is
24 the square footage?

25 MR. PENNESSI: Let's look at

1 the code, 150-15, under
2 requirements. Buildings with
3 offices, retail establishment under
4 25,000 square feet of floor area,
5 one additional berth for each
6 additional 25,000 square feet of
7 floor area or fraction thereof --

8 MR. PROKOP: That's it. The
9 fraction thereof applies.

10 MR. PENNESSI: Our service
11 establishment is 875 square feet.

12 CHAIRMAN SALADINO: That is
13 true. But you are asking us to
14 interpret the code and we have to
15 go by what the code says. If the
16 interpretation should go against
17 you and the argument that the
18 building is 500 square feet, that
19 becomes an argument for a variance.

20 MR. PENNESSI: I will say --
21 that is why I thought this would
22 tie into parking a little bit
23 because we have work studies that
24 if a loading zone was required, we
25 think we could squeeze in a loading

1 zone in the parking lot that would
2 reduce the number of off-street
3 parking places on the property. 12
4 to 11.

5 CHAIRMAN SALADINO: I think if
6 you suggest that or have suggested
7 that, I would guess that the
8 majority of the public opinion
9 would be not in favor. The loading
10 zone is a concern for some but not
11 all. Parking seems to be the
12 concern for everyone. So I
13 wouldn't pitch reducing my parking
14 area to have a loading zone as a
15 reason. I wouldn't do that. I am
16 not sure how we could interpret
17 this any other way. The
18 interpretation in my mind is clear.
19 To argue for the variance is
20 certainly your right. I think we
21 should vote on that now.

22 MR. PENNESSI: We can look at
23 the denial, but the denial did not
24 reference B-1-C.

25 MEMBER GORDON: I think it's

1 bad drafting. And my inclination
2 would be to be more flexible since
3 it's bad drafting. Obviously if
4 you have a 1,000 square feet
5 property you would not have to have
6 -- nobody --

7 CHAIRMAN SALADINO: But Dinni,
8 we can't legislate that.

9 MEMBER GORDON: I agree. Of
10 course we can't. We can be more
11 flexible in our interpretation.

12 CHAIRMAN SALADINO: We can be
13 more flexible when it comes to vote
14 for the variance. If we deny his
15 interpretation appeal and say that
16 he does need a loading berth --
17 it's two bites at the apple. He's
18 asking us to make an interpretation
19 and if that doesn't work out, then
20 we will rule on a variance. And
21 whether the Board goes against him
22 for the interpretation, then
23 certainly. Vote for the time of
24 the variance.

25 MEMBER CORWIN: Are you going

1 to call on the audience?

2 CHAIRMAN SALADINO: Does
3 anyone have an opinion on the
4 loading zone? We are going to let
5 Chatty go first.

6 MS. ALLEN: Chatty Allen. I
7 am 11 Fifth Avenue. I have a big
8 problem with the loading zone.

9 CHAIRMAN SALADINO: Just the
10 wording of the code.

11 MS. ALLEN: The interpretation
12 that I have been hearing, it's up
13 to a certain amount that you have
14 to have a loading zone.

15 CHAIRMAN SALADINO: Correct.

16 MS. ALLEN: That is how he
17 should be. If he wants to apply
18 for more than that, then he can.
19 But you're definitely going to get
20 pushed back from people given where
21 the site is. And I said, go with
22 the code. He needs one loading
23 berth.

24 MEMBER NEFF: The need for a
25 loading berth, such as we find in

1 the Village, like behind the IGA
2 for instance. They're marked in
3 such a way that no one can park
4 there except someone loading. And
5 I think what what we're really
6 looking for on this kind of a site.
7 The site here, for this proposal is
8 space for deliveries rather than a
9 designated very large loading zone.
10 And I have a problem seeing even
11 deliveries happening in that site.
12 Particularly since that lane of
13 Front Street is really a turning
14 lane for traffic for the ferry. So
15 it has to be on the side. And even
16 small deliveries trucks that we
17 see, are going to have trouble
18 fitting in a parking place, a
19 10x20.

20 MEMBER GORDON: You realize
21 you are speaking to the variance
22 not to the interpretation?

23 MEMBER NEFF: The
24 interpretation, what did we mean by
25 loading zone? A loading zone -- are

1 we specifying it's number of feet
2 and does it have to be marked off
3 --

4 CHAIRMAN SALADINO: No. We're
5 specifying right now for this
6 interpretation that the code
7 actually says for this particular
8 piece of property needs a loading
9 zone.

10 MEMBER NEFF: There is a
11 loading zone with a certain number
12 of feet, painted to only be used
13 for loading?

14 CHAIRMAN SALADINO: Yes.

15 MR. PENNESSI: 12 feet long --

16 MEMBER NEFF: Which is not
17 possible on this site.

18 CHAIRMAN SALADINO: Depending
19 on the vote of the Board, he is not
20 withdrawing the application, he is
21 just asking is to interpret the
22 code the way that he would like us,
23 as opposed to what we feel it says.
24 And then he certainly has the right
25 to ask for a variance. Mike, from

1 the public wanted to say something.

2 MR. REED: Mike Reed, 430 Front
3 Street. Just two part question. By
4 using that loading, you're taking
5 away a parking spot?

6 CHAIRMAN SALADINO: That was
7 the second proposal.

8 MR. REED: My other question
9 was, when all this was being done,
10 was an impact study being done with
11 the traffic through New York State?

12 CHAIRMAN SALADINO: Yes.

13 MR. REED: And what did they
14 say?

15 MEMBER CORWIN: Not from New
16 York State.

17 MR. REED: Okay.

18 MEMBER CORWIN: That is in the
19 works.

20 CHAIRMAN SALADINO: There is a
21 parking study.

22 MR. PENNESSI: If I could
23 clarify? We had a professional
24 traffic engineer from Westhampton
25 Beach prepare a traffic study on

1 site. That is -- that is the
2 acceptable method to deliver
3 evidence onto the record as to
4 parking and traffic for a
5 particular site. And we can analyze
6 this once we get into the parking.
7 I believe what the State's response
8 was, it's reviewing that, if we
9 were to perform work on the State
10 road, that we would require a State
11 permit. Currently, we're not
12 proposing to do any work on the
13 State road. If we had to do some
14 work with the utilities, we would
15 obtain a State permit, but that
16 doesn't impact the traffic study
17 for this purpose.

18 MEMBER CORWIN: Just so you
19 know what State road is, it's Front
20 Street and it's Third Street, which
21 is Route 114. And you have to put
22 in a sewer line in at some point.

23 CHAIRMAN SALADINO: Right now,
24 the traffic study is dealing more
25 with what is happening in front of

1 the building and what is happening
2 next to the building and not so
3 much on the property and the
4 loading zone, to me, is about the
5 8,750 square feet property.

6 MS. JAGGAR: Maryanne Jaggar,
7 430 Front Street. This loading
8 dock, it would be plausible, if
9 people came and delivered before
10 six in the morning. You could get
11 away with it. After that, it
12 becomes very dangerous trying to
13 get that traffic coming out of that
14 side thing with the other. So I
15 know it is.

16 CHAIRMAN SALADINO: It's about
17 being required to have a specific
18 area on the property for trucks to
19 load and unload.

20 MS. JAGGAR: Right. Then he
21 is knocking out a couple of parking
22 spots. And isn't there a rule when
23 you start at 34 --

24 CHAIRMAN SALADINO: Not an
25 issue right now.

1 MS. JAGGAR: I was just
2 curious on how that worked.

3 MS. MACATEE: Joanne
4 Macatee, Fifth Avenue. Can he
5 decide or can he do an off the
6 property area? Can he rent a
7 space somewhere else or rent
8 another lot locally or within
9 his area.

10 CHAIRMAN SALADINO: There is a
11 portion of the code that says that
12 he can provide off-street parking,
13 if the property is within 200 feet
14 of the principal property and he
15 has to be the owner. That would be
16 up to the applicant to decide. So
17 he could rent within 200 feet and
18 he can knock the old Meson Ole
19 building down and that becomes a
20 lot. I was just giving an example.
21 He certainly has the right to buy
22 that property and use it for
23 parking, use it for loading. As
24 long as the hotel was there. I am
25 sure Mr. Pennessi knows that

1 option. Anybody else about the
2 interpretation or the loading zone?

3 (No Response.)

4 CHAIRMAN SALADINO: So I am
5 going to make the same motion.

6 MEMBER CORWIN: Can we do
7 SEQRA first?

8 MR. PROKOP: This is a Type II
9 action. Just the first part of the
10 motion should say that the
11 interpretation is a Type II action
12 and does not require SEQRA.

13 CHAIRMAN SALADINO: Okay. The
14 ZBA declares itself as lead agency
15 and it's a Type II action with no
16 negative impact on the environment.
17 And I move that.

18 Can I get a second?

19 MEMBER NEFF: Second.

20 MEMBER CORWIN: The attorney
21 is saying that should be part of
22 the whole thing.

23 MR. PROKOP: That could be
24 part of the motion or you could do
25 it separately. Doesn't matter.

1 MEMBER CORWIN: Then let's do
2 it separately. It's been seconded.

3 CHAIRMAN SALADINO: Mr.
4 Corwin?

5 MEMBER CORWIN: Yes.

6 CHAIRMAN SALADINO: Ms.
7 Gordon?

8 MEMBER GORDON: Yes.

9 CHAIRMAN SALADINO: Ms. Neff?

10 MEMBER NEFF: Yes.

11 CHAIRMAN SALADINO: Mr. Moore
12 is not here. I am going to vote,
13 yes.

14 I am going to make a motion
15 that the ZBA tentatively deny the
16 applicant appeal contingent upon
17 the Village Attorney drafting a
18 written resolution of our decision
19 for our next meeting and the ZBA
20 adopting that resolution with any
21 modifications at the next meeting.
22 The applicant has failed to comply
23 or offer any convincing evidence in
24 support of the request for
25 interpretation or to support any

1 position contrary to the denial's
2 issued by the Building Inspector.
3 The Zoning Board of Appeals
4 determines that with respect to the
5 interpretation No. 2, the section
6 150-16, B, E. The Building
7 Inspector was correct in denying
8 this application with respect to
9 that point and that a variance is
10 required. So moved.

11 MEMBER CORWIN: Can I ask you
12 to amend that to include paragraph
13 C to, which is the square feet
14 paragraph?

15 CHAIRMAN SALADINO: Do I have
16 to make an amended motion.

17 MEMBER CORWIN: You should say
18 the part you're amending I think.

19 CHAIRMAN SALADINO: So we're
20 going to add to Section 150-16 B, E
21 and C. So moved.

22 MEMBER CORWIN: Second.

23 CHAIRMAN SALADINO: Mr.
24 Corwin?

25 MEMBER CORWIN: Yes.

1 CHAIRMAN SALADINO: Ms.

2 Gordon?

3 MEMBER GORDON: Yes.

4 CHAIRMAN SALADINO: Ms. Neff?

5 MEMBER NEFF: Yes.

6 CHAIRMAN SALADINO: And I will
7 vote, yes.

8 Parking. The applicant
9 requests an interpretation of
10 150-12C to determine whether the
11 project is exempt from the
12 Greenport Village Code.

13 MR. PENNESSI: If I could, I
14 would like to present them both?

15 CHAIRMAN SALADINO: Sure.

16 MR. PENNESSI: 150-12C, the
17 relevant part of it. States that
18 the use adaptation or change of use
19 for any building within the CR or
20 WC District, which this property is
21 within the WC District, in
22 existence as of January 1, 1991,
23 shall be entirely exempt from any
24 off-street parking requirements as
25 provided in this or any other.

1 This shall apply to improved
2 parcels only and not unimproved
3 parcels. Notwithstanding any
4 other provisions to the contrary.
5 Section 150-16A1, states that
6 accessory off street parking
7 spaces, open or closed, shall be
8 provided for any specified below
9 for land which is unimproved within
10 the CR and WC District's and for
11 all other land in all other
12 districts improved or unimproved.
13 And the relevant part says, land
14 within the CR or WC District's
15 which is improved as of January 1,
16 1991 shall be entirely exempt from
17 off street parking requirements and
18 from payments in lieu thereof.
19 Each of these sections was adopted
20 on November 15, 1990. As I had
21 mentioned before, we FOIL'd all
22 resolutions applying to this
23 property and hadn't received any
24 resolutions indicating that the
25 Zoning Board had in fact, these

1 sections did not apply to this
2 particular property. We also
3 FOIL's the resolutions as to the
4 Harbor Front End. And
5 significantly, the October 28, 2002
6 Planning Board site plan approval
7 fort the Harbor Front End
8 references a decision by the Zoning
9 Board of Appeals dated March 20,
10 2002 for some reason I didn't
11 receive this resolution. Although
12 it was FOIL'd. The decision states
13 that, March 20, 2002, the Zoning
14 Board determined that the subject
15 property, is exempt from the
16 Village's off street parking
17 requirements pursuant to Section
18 1-16 of the Village Code.
19 Significantly as we have stated
20 previously, this property has been
21 improved from as early as I could
22 tell 1880's. It was improved at
23 that time by the Peconic Hotel. We
24 have reviewed sand-born fire maps
25 dated 1890, 1897, 1902 and 1964.

1 All of which showed some
2 improvement or another on the
3 property. A service station
4 through the 40's. We reviewed
5 aerial photography from the mid
6 50's. Thereafter, the carousel
7 existed on the property. And more
8 recently, 3,000 square foot village
9 storage area. And now, village
10 transformers, paving and the
11 foundation. As a result, we feel
12 very confidently that Section
13 150-12C would require that there is
14 no off street parking required for
15 this property. And even if the
16 Village Zoning Board was to
17 determine that 150-12C did not
18 apply to this property, that
19 150-16A1 would indicate that no off
20 street parking is required on this
21 property. Now, if I could, we
22 haven't been able to spend too much
23 time on the Dunn Engineering study,
24 but it was referenced before. Dunn
25 Engineering had prepared a parking

1 study when the Greenport Gateway
2 project was proposed in 2008. And
3 we had hired Dunn Engineering to
4 update that report as a traffic
5 study. So we have submitted to the
6 Board a study dated March 8, 2016,
7 which indicates in a number of
8 places that the parcel is improved
9 by paved parking area, utilities
10 and that -- and I can go into the
11 number of spaces. There is a
12 number of on street parking on
13 Front Street, public parking spaces
14 on Adams Street, at the Greenport
15 Railroad Station and MTA lot south
16 thereof. What we can tell is that
17 there is approximately 60 on street
18 spaces. Parking -- the location or
19 distance of parking to a particular
20 property is reviewed by a level of
21 service that a parking provides to
22 a particular property. The best
23 possible parking is within 400 feet
24 of the property. So we estimated
25 that approximately 60 spaces

1 between on street and Adams lot.
2 60spaces at the railroad station
3 and countless at the MTA lot. Dunn
4 Engineering found in their report
5 the following conclusions and if
6 you wold humor me, I would just
7 like to read them in? I will read
8 very quickly. There are 7. Based
9 on the foregoing, the proposed
10 devotement would be expected to
11 generate a small amount of new
12 traffic that should have minimal
13 impact on operating conditions on
14 the roadway and near the site. The
15 parking provided in combination
16 with the bailable on street and
17 municipal parking is expected to be
18 sufficient to accommodate demand.
19 Furthermore, that 12 parking spaces
20 on site meets and exceeds the
21 Village's parking requirements.
22 Since no off street parking is in
23 fact required on the site. As can
24 be seen, the analysis estimates
25 that during the weekday, A.M.

1 peek, a total of 16 trips would be
2 generated. 8 entering and 8
3 exiting. Similarly during the
4 weekday P.M. peek, 34 trips would
5 be generated, 20 entering, 14
6 exiting. Finally on Saturday's,
7 it's estimated that the proposed
8 development will generate 43 trips.
9 25 entering and 18 exiting. A
10 small amount of traffic considering
11 the current condition on
12 surrounding roads. It's not
13 expected to have a significant
14 impact on operating conditions on
15 the site. The addition of 43 new
16 vehicle trips under a worse case
17 scenario would not represent a
18 significant increase in traffic and
19 wold therefore overall traffic
20 impacts would not expected to be
21 significant. Higher than one would
22 expect to occur. The location of
23 the site access on Third Street
24 conforms to the access management
25 plan of New York State

1 Transportation. Since the site
2 access driveway will be located on
3 the lower volume side street rather
4 than on Front Street. Locating the
5 driveway on Front Street would have
6 the greater traffic impact. The
7 proposed use has less or equal
8 traffic impacts than the previous
9 application of Greenport Gateway.
10 Comparing the traffic generated by
11 the previous application of retail
12 and apartments and the traffic
13 generated by the proposed uses
14 indicate that the previous uses
15 generated substantially more
16 traffic during the AM hours and
17 approximately the same amount of
18 traffic during the P.M. and
19 Saturday afternoon peak hours. As
20 noted in the trip generation
21 section of this report, yes,
22 patrons will utilize, taxies, the
23 Long Island Railroad, buses, the
24 North Ferry and Hampton Jitney.
25 While this is expected to reduce

1 the tri[s to the site, no credit
2 was taken into analysis that is
3 contained in the report for this
4 affect. And finally, the parking
5 provided on site exceeds the onsite
6 parking required by code and in
7 combination with the on street and
8 public parking's supplied, it is
9 expected to be sufficient to
10 accommodate the demand. Finally,
11 we touched on the LWRP last time,
12 and understand that it has not been
13 adopted by the Village but it
14 identifies this property and what
15 should be there, which is a mixed
16 use project with a retail engaged
17 street scape and potentially
18 residential. To be specific about
19 the Zoning Code interpretation that
20 we are asking you to make, I think
21 it's important for 150-12C to focus
22 on what it means to be improved as
23 of January 1, 1991. As for both
24 existing buildings under Section
25 12C --

1 CHAIRMAN SALADINO: What you
2 said about the parking survey and
3 stuff, would seem it goes more
4 towards asking for a variance then
5 asking for the interpretation. To
6 me, what this Board has to do is
7 whether to approve this or not.

8 MEMBER GORDON: We also, I
9 think, need something to consider
10 legally whether something could
11 become improved -- could become
12 unimproved and then re-improved. I
13 think one would submit that this
14 parking surface is unimproved but I
15 would say that once something is
16 improved, it's always improved.
17 But I would like to know if there
18 is any legal definition of what
19 improved suggest.

20 CHAIRMAN SALADINO: Well, the
21 applicant's contention is once it's
22 improved, it's always improved.

23 MR. PENNESSI: We are dealing
24 with an engaged well built, well
25 defined Village with depth and

1 infracture and the improvements on
2 this -- yes, I do think an improved
3 property can be returned to an
4 unimproved state.

5 CHAIRMAN SALADINO: Well, to
6 me, and it's just my thought, that
7 it's hard to envision a parking lot
8 that is there now is being improved
9 as of -- there is a portion of the
10 code, that once a piece of property
11 reverts to the requirement -- that
12 would be parking --

13 MR. PROKOP: One of the things
14 that I would like to point out, if
15 I could? Again, we had this
16 conservation a couple of months ago
17 when the applicant suggested that
18 rural -- his verbal account was not
19 going to be sufficient and that the
20 property was improved at a certain
21 time.

22 MR. PENNESSI: I wasn't aware
23 that there was a request for paper
24 documentation but I can deliver the
25 fire born sand maps to show as of

1 1882, if you would like?

2 MR. PROKOP: I think the
3 relevant date is 1991; right?

4 MR. PENNESSI: That is what we
5 are asking for an interpretation
6 on. Why don't we look specifically
7 to the code sections that are
8 asking to be interpreted? Because
9 that is what the Zoning Board is
10 charged with. They are charged
11 with telling me whether they agree
12 with my interpretation of Section
13 12C.

14 CHAIRMAN SALADINO: How can
15 you dispute that in 1991 there was
16 a building there and now in 2016,
17 there is no building there? How
18 can you say that property continues
19 to be improved?

20 MR. PENNESSI: Because that is
21 the control date that the Village
22 Board determined for purposes of
23 this code section. That as long as
24 it's been -- it was improved by
25 that date, that is the

1 interpretation that we are asking
2 you guys to make. Since it was
3 improved by 1991, the Village Board
4 has determined that it's exempt
5 from off street parking.

6 MEMBER GORDON: 150-16 applies
7 that to land. Within the CR and WC
8 Districts,

9 MR. PENNESSI: I would agree
10 with you. And that goes back to
11 what we said before. If the Board
12 determines that 12C does not apply
13 to this property certainly A1
14 would.

15 MR. PROKOP: Could I see your
16 copy?

17 MEMBER GORDON: Sure.

18 MEMBER NEFF: May I just make
19 a point? This was pulled out of
20 the package. I can't say exactly
21 where it was. The date this
22 photograph -- I don't know what it
23 is. The building that I recall
24 being there and not a long time
25 ago, is certainly an improvement.

1 It was a metal building and there
2 for at least a decade.

3 MS. JAGGAR: It was there for
4 a couple of years.

5 MEMBER GORDON: As of 1991.

6 MEMBER NEFF: I accept the
7 idea that this property was
8 improved prior to 1991 and after
9 1991.

10 MEMBER GORDON: Yes.

11 MEMBER NEFF: So therefore,
12 the way that I am reading these
13 various documents and photograph,
14 that off street parking at the
15 level of 36 spaces doesn't suit
16 this proposal.

17 CHAIRMAN SALADINO: Wait a
18 second. Now I am confused. If you
19 are advocating that he doesn't have
20 to comply with parking --

21 MEMBER NEFF: I don't.

22 CHAIRMAN SALADINO: Then it's
23 hard for me to hear that he can't
24 have 36 parking spaces.

25 MEMBER NEFF: Can't require

1 that. What I am looking at is the
2 map and the remains of what's just
3 on the site. Is that it doesn't
4 requirement off street parking
5 because it has in fact been
6 improved. Yes. I want to stick to
7 the first part.

8 CHAIRMAN SALADINO: I don't
9 have the code in front of me but
10 there is a portion of the code when
11 a piece of property stops being
12 used for several intended purpose,
13 it results to the bulk parking
14 regulations.

15 MR. PROKOP: Right. It's a
16 conforming or nonconforming use.
17 It's a conforming or nonconforming
18 property for a nonconforming use
19 that is terminated is then loss.

20 MR. PENNESSI: It's a
21 permitted use.

22 CHAIRMAN SALADINO: It's a
23 conditional.

24 MR. PENNESSI: Conditional
25 permitted use. It's not a

1 nonconforming -- this is a
2 conforming conditional use. This
3 is not a nonconforming use. We are
4 not asking for a use that is not
5 permitted, nor would be able to put
6 a nonconforming use without a
7 zoning code change. The code
8 provides for hotel, residential and
9 retail uses by approval by the
10 Planning Board. Those are
11 conforming uses.

12 MR. PROKOP: It would have to
13 continue to be in existence since
14 1991. 16A is not as clear. Not
15 sure if that would apply or not.

16 MR. PENNESSI: It's a
17 permitted --

18 MR. PROKOP: I give up. Now
19 you're the attorney for the Board.
20 Congratulations.

21 MR. PENNESSI: Sorry.

22 MR. PROKOP: 12C is clear. A
23 building use existing now is exempt
24 if the same building was in
25 existence in 1991. That's 12C. It

1 would have to be in existence then
2 and existence now. I'm sorry, is
3 there something that you wanted to
4 point out?

5 MR. PENNESSI: No, I don't.

6 MEMBER GORDON: That is a
7 problem because it refers to a
8 building. Any building in the
9 district within -- that building
10 doesn't exist.

11 CHAIRMAN SALADINO: That was
12 my question. It's unfortunate that
13 the Building Inspector is not here.
14 She could have added her opinion.
15 I am going to let the public, on
16 then interpretation --

17 MS. JAGGAR: I am confused
18 here. If a building is on it, put
19 on a piece of property that is an
20 improvement. You take that
21 building off because it was a
22 portable building, is that an
23 improvement now?

24 CHAIRMAN SALADINO: That is
25 the question.

1 MEMBER GORDON: There was also
2 a hotel on there.

3 MS. JAGGAR: That was years
4 and years ago. Therefore, that
5 building shouldn't even count. It
6 doesn't pertain to that law you had
7 -- it shouldn't even pertain to it.
8 He finds all these areas and I
9 don't even mean to put you down, I
10 don't because I think it's a
11 beautiful building. But you're
12 saying, oh we have 60 here. And
13 this and that. Have you ever been
14 in Greenport when they have a full
15 house?

16 CHAIRMAN SALADINO: Maryanne?

17 MS. JAGGAR: This is all what
18 you're talking about.

19 CHAIRMAN SALADINO: Right now,
20 we're talking about how the code is
21 worded. Parking might be later on
22 down the road, parking study down
23 the road, where the driveway is --
24 depending on where this is headed,
25 that might be brought up later or

1 not at all.

2 MS. JAGGAR: Right.

3 MEMBER GORDON: Or come before
4 the Planning Board, if it's decided
5 in terms of the code requirements.
6 The Planning Board might say
7 something about it.

8 CHAIRMAN SALADINO: Well, the
9 Planning Board has the option to
10 settle this. If the interpretation
11 is that he doesn't need parking, I
12 am not sure that the Planning Board
13 can settle this. Is there a sense
14 of the Board? Do we want to vote?

15 MS. PETERSON: Diane Peterson.
16 This would go back, is there
17 wording or anything specific that
18 says that if the use of the land
19 changes and how many years it has
20 not been there, that the use of the
21 land changes? That would help at
22 all?

23 MR. PROKOP: Under 12C, it
24 would have to be continuous from
25 1991 to now.

1 MS. PETERSON: Thank you.

2 MR. PENNESSI: Can I ask that
3 if the Board is inclined to make a
4 motion that they first deal with
5 12C and based on that decision, we
6 can discuss the 16A1?

7 CHAIRMAN SALADINO: We have a
8 problem again. Ms. Gordon has a
9 previous engagement. She put it
10 off. Canceled part of it.

11 MEMBER GORDON: I am giving a
12 talk.

13 CHAIRMAN SALADINO: She has to
14 be there. She would like to vote,
15 she can certainly leave. We have a
16 quorum. I am not sure if one
17 person has a difference of opinion
18 of the two, where that would leave
19 us.

20 Joe?

21 MEMBER GORDON: We have to
22 have anonymity.

23 MR. PROKOP: Yes.

24 MR. PENNESSI: Can we vote on
25 12C now and then pending on where

1 that goes, perhaps we table the
2 next discussion which may require
3 more than five minutes?

4 CHAIRMAN SALADINO: Okay.

5 MR. PENNESSI: We have been at
6 it for so long. At least, it's
7 moving.

8 CHAIRMAN SALADINO: I will
9 make the same motion.

10 MR. PROKOP: We will just
11 insert the language in the
12 beginning that the Board finds that
13 this is a Type II action for
14 purposes of SEQRA and will not have
15 a significant negative impact on
16 the environment.

17 CHAIRMAN SALADINO: Okay. All
18 right. I will make a motion that
19 this is a Type II action and will
20 have no negative impact on the
21 environment.

22 Do you want to vote on SEQRA
23 or as the motion as a whole?

24 MEMBER CORWIN: All together,
25 please.

1 CHAIRMAN SALADINO: The ZBA
2 tentatively denies the applicants
3 appeal contingent upon the Village
4 Attorney drafting a written
5 resolution of our decision for our
6 next meeting and the ZBA adopting
7 that resolution with any
8 modifications at the next meeting.
9 The applicant has failed to
10 comply or offer any convincing
11 evidence in support of the request
12 for interpretation or to support
13 any position contrary to the
14 denial's issued by the Building
15 Inspector. The Zoning Board of
16 Appeals determines that with
17 respect to the interpretation
18 No. 3A, the section 150-12C, the
19 Building Inspector was correct in
20 denying this application with
21 respect to that point and that a
22 variance is required.

23 So moved.

24 MEMBER CORWIN: I second the
25 motion.

1 CHAIRMAN SALADINO:

2 Mr. Corwin?

3 MEMBER CORWIN: Yes.

4 CHAIRMAN SALADINO: Ms.

5 Gordon?

6 MEMBER GORDON: No.

7 CHAIRMAN SALADINO: Ms. Neff?

8 MEMBER NEFF: No.

9 CHAIRMAN SALADINO: Mr. Moore
10 is not here.

11 And I am going to vote,
12 yes.

13 So that fails.

14 MR. PENNESSI: Do you have a
15 transcript for an approval over
16 there, Mr. Chairman

17 CHAIRMAN SALADINO: I do.

18 MR. PENNESSI: I just wanted
19 to make sure.

20 CHAIRMAN SALADINO: We are
21 going to let Ms. Gordon go. I
22 might be inclined to, next month
23 there will be five members next
24 month.

25 MR. PENNESSI: I think we

1 would like to adjourn this next
2 piece. I would just like to make
3 a statement on this one, if I
4 can?

5 CHAIRMAN SALADINO: Sure.

6 MR. PENNESSI: I think
7 significantly, the Board has
8 determined that 12C states that the
9 use of any building in the district
10 in existence as of January 1, 1991
11 would comply that the building on
12 this property be in existence as of
13 January 1, 1991 and subject to --
14 and not subject to off street
15 parking. And what is significant,
16 on the same date it was adopted,
17 this section and Section A1,
18 which the Village specifically
19 decided not to use that language.
20 A building in existence as of
21 January 1, 1991. 16A1, could
22 have said, the same thing but it
23 does not. It states that land
24 within the district. Which is
25 improved as of January 1, 1991

1 shall be entirely exempt from off
2 street parking requirements and
3 from payments in lieu thereof. I
4 will just leave you with, perhaps
5 we can think about it until next
6 time that it's a significant
7 difference between 12C and
8 requiring the building on the
9 property on that date and the
10 Village Board deciding expressively
11 not including that specific
12 language in 16A.

13 CHAIRMAN SALADINO: I would
14 dispute it.

15 MEMBER CORWIN: I dispute it
16 too because the Zoning Board of
17 Appeals didn't make any
18 determination because they weren't
19 enough members. There was only
20 2 votes for and 2 votes against.
21 So nothing happened.

22 CHAIRMAN SALADINO: I would
23 dispute it on different grounds. I
24 chose to listen to the Village
25 Attorney's understanding of that

1 portion of the code as it relates
2 to the law as opposed to the law
3 and I voted accordingly. Next
4 month, there will be five members
5 and it will be impossible to have a
6 tie.

7 MR. PENNESSI: I appreciate
8 that and we will. And this is an
9 exercise an interpretation and a
10 code written a very long time
11 ago.

12 CHAIRMAN SALADINO: I
13 don't -- Joe, is there a problem
14 with us postponing until next
15 month?

16 MR. PROKOP: No actually, we
17 should do that.

18 CHAIRMAN SALADINO: So we will
19 adjourn the public hearing until
20 the next time.

21 MR. PENNESSI: To hopes that
22 we can close it next month.

23 CHAIRMAN SALADINO: We are
24 going to adjourn the public hearing
25 and those items will come up again

1 at the next public hearing. So
2 we're going to adjourn this public
3 hearing until May 17th and as
4 Mr. Pennessi said, hopefully we can
5 close it then.

6 MEMBER CORWIN: Second.

7 CHAIRMAN SALADINO: All in
8 favor?

9 MEMBER CORWIN: Aye.

10 MEMBER NEFF: Aye.

11 CHAIRMAN SALADINO: Aye.

12 We have two small pieces of
13 business to take care of.

14 We have Item No. 6, motion to
15 approve the determination documents
16 of denying the area variance for
17 Carlos Saavedra and Nicole
18 Eckstrom.

19 So moved.

20 MEMBER CORWIN: Second.

21 CHAIRMAN SALADINO: All in
22 favor?

23 MEMBER CORWIN: Aye.

24 MEMBER NEFF: Aye.

25 CHAIRMAN SALADINO: Aye.

1 Item No. 7, motion to
2 approve the determination documents
3 denying the area variance for
4 Robert Moore, 139 Fifth Street.

5 So moved.

6 MEMBER NEFF: Second.

7 CHAIRMAN SALADINO: All in
8 favor?

9 MEMBER CORWIN: Aye.

10 MEMBER NEFF: Aye.

11 CHAIRMAN SALADINO: Aye.

12 Item No. 8, there is a motion
13 to accept the ZBA minutes of
14 March 16, 2016.

15 So moved.

16 MEMBER CORWIN: Second.

17 CHAIRMAN SALADINO: All in
18 favor?

19 MEMBER CORWIN: Aye.

20 MEMBER NEFF: Aye.

21 CHAIRMAN SALADINO: Aye.

22 Item No. 9, motion to approve
23 the ZBA minutes for
24 January 20, 2016 and
25 February 17, 2016.

1 So moved.

2 MEMBER NEFF: Second.

3 CHAIRMAN SALADINO: All in
4 favor?

5 MEMBER CORWIN: Aye.

6 MEMBER NEFF: Aye.

7 CHAIRMAN SALADINO: Aye.

8 Item No. 10, motion to
9 schedule the next ZBA meeting for
10 Tuesday, May 17, 2016 at 6:00 at
11 Station 1, Greenport Village Fire
12 Department.

13 So moved.

14 MEMBER CORWIN: Second.

15 CHAIRMAN SALADINO: All in
16 favor?

17 MEMBER CORWIN: Aye.

18 MEMBER NEFF: Aye.

19 CHAIRMAN SALADINO: Aye.

20 MEMBER NEFF: Do we have to
21 put in the site visits, the times?

22 CHAIRMAN SALADINO: We did
23 them.

24 MEMBER NEFF: Okay.

25 CHAIRMAN SALADINO: Before we

1 adjourn, David has a question.

2 MEMBER CORWIN: The Mayor
3 suspended the Code Committee and he
4 has asked -- and what he is going
5 to do is ask various Boards what
6 their position was on different
7 things. I said what I felt was a
8 fair interpretation of fences and
9 Village laws to the Planning Board
10 and the Village Board and I would
11 just suggest that anybody that
12 wants to differ with that at this
13 point in time, should make their
14 thoughts known?

15 MEMBER NEFF: Can I ask that
16 we take that matter up when we are
17 a full Board?

18 Rather than at this point.

19 CHAIRMAN SALADINO: It's just
20 a comment.

21 MEMBER NEFF: My comment is
22 that we discuss this as a full
23 board.

24 MEMBER CORWIN: Fair enough.

25 CHAIRMAN SALADINO: That's a

1 good comment.

2 Item No. 11 motion to
3 adjourn.

4 So moved.

5 MEMBER CORWIN: Second.

6 CHAIRMAN SALADINO: All in
7 favor?

8 MEMBER CORWIN: Aye.

9 MEMBER NEFF: Aye.

10 CHAIRMAN SALADINO: Aye.

11

12 (Whereupon, the meeting
13 concluded.)

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

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

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

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

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

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


(Jessica DiLallo)

* * *