VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING AGENDA

July 17, 2013
5:00 p.m.

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

APPEARANCES:
Doug Moore - Chairman
Charles Benjamin
David Corwin
Ellen Neff
Denise Rathbun
Joseph Prokop - Village Attorney
David Abatelli - Village Administrator
Eileen Wingate - Village Building Inspector
(Whereupon, the meeting was convened at
5:07 p.m.)

CHAIRMAN MOORE: I think we're ready to
begin.

This is the Regular Session of the
Greenport Zoning Board of Appeals on July
17th, and it's about seven after five. And we
have a full membership tonight. So Denise
Rathbun's been out for a while and she's
recuperating and back in full force. So we
have a full Board tonight, which is good
thing.

We have a very busy agenda tonight, and
not only some complicated issues, but also
some interesting ones. So I think it might be
an interesting session, but it will be busy
and I hope we can move things along.

We have three Public Hearings, and then
we have our regular agenda. So, if the Board
is ready, we'll just proceed with the agenda.

The first item is a continuation of the
Public Hearing for Arden Scott, 301 Atlantic
Avenue, Suffolk County Tax Map 1001-2-2-14.

The Applicant seeks a permit to
construct an addition to an existing
nonconforming building where:

The proposed addition is 15 feet from
the east property line, requiring a 15-foot
front yard area variance, where Section
150-12A of the Village of Greenport Code
requires a 30-foot front yard setback. This
is because an unusual situation of a corner.
There are actually two front yards on this
property.

Without reading the second section,
perhaps I could ask Mr. Prokop, before we take
any further testimony, to review the process.

We do apologize for the delays, but
there was a question in our first session that
we did not have an answer to and Mr. Prokop
wasn't here. We had some advice after that,
and perhaps I'll let him review where we are
today. Joe?

MR. PROKOP: Yes, thank you. I had --
as you said, I wasn't at the May meeting, and
I spoke to the Village prior to the June
meeting, and based on information at that
time, I had indicated that I thought that a
use variance was necessary for this project.

And subsequent to that, I spent time
with the Village and went through the -- went
through additional material that was
available, and based on that second review, I
was able to indicate in a letter that I sent
to the Board that I do not think that a use
variance is necessary for the application, and
the application can move ahead with -- just
with area variances, as requested in the
Public Hearing.

CHAIRMAN MOORE: Okay. Thank you. And
we did not need to re-notice the meeting, and
so this was -- is now a continuation of the
Public Hearing. So we would perhaps ask the
Applicant or a representative to just do a
brief recap of what's being sought.

If there are any people in the audience,
then, that would wish to speak, we could
entertain any additional public comments
before we move on.

MR. KAPELL: Mr. Chairman, Members of
the Board, David Kapell, 400 Front Street,
Greenport, for the Applicant, Arden Scott.
Ms. Scott proposes to build a small
addition on an existing building that has a
long history as a truck garage, which was
permitted pursuant to a variance issued, I don't know, some 30, 40 years ago in connection with the operation of Pell's Fish Market adjacent.

She has used this structure for the last several years as an artist studio, and proposes now to build a small addition, which would allow her to have a heated space, which doesn't exist now, and, also, to bring north light into an area where she needs to able to draw. North light, as you probably know, is a very important commodity for an artist.

The property, as you mentioned, is a corner property, so it's subject to a double front yard. That necessitates the variance that we're asking for. Ordinarily, a 15-foot setback would be sufficient on the side. In this case it's not, because it's the second piece of a corner lot.

Just in terms of the criteria that the Board uses to evaluate a variance application, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties by the granting of the variance, I would submit that the
answer to that is clearly no, that this will be a net improvement to the property. Anything is better than an industrial truck garage. And this will help Arden clean up the property and use it in an orderly way that will benefit the neighborhood. Whether the benefit sought by the Applicant can be achieved by some method feasible for the Applicant to pursue other than an area variance. Again, I'd say no. This is the only location on the property where she can construct this addition in a manner that brings north light into the building. Whether the requested variance is substantial. I'll leave it for you to conclude that. I don't think so. It's in conformity with what would otherwise need a side yard variance -- a side yard setback requirement, and I don't think it's a substantial -- we don't think it's a substantial request. Whether the proposed variance will have an adverse effect or impact on the physical environment conditions in the neighborhood.
Once again, I'd say no. This would be a net gain for the neighborhood. This would be a substantial improvement. She's a quiet neighbor. She's going to be improving the property. Anything is better than the truck garage.

And then, lastly, whether the alleged difficulty was self-created. And, once again, I would say no, because she's inherited the prior use and the prior -- the existing building on the property, which was constructed as a truck garage, and she's trying to accommodate the current conditions in a way that allows her to do what she needs to do.

If there's -- if the Board has any questions, I'm available. Also, the Architect who's drawn the plans, is also available if there are any technical issues.

CHAIRMAN MOORE: Thank you. We'll have the chance to ask specific questions during the discussion phase, so we would, you know, reserve that for that time.

MR. KAPPELL: Thank you.

CHAIRMAN MOORE: And I'm sure there may
be a few. And if no other comments from the
Applicant, any members of the public like to
speak regarding the application?
(No Response)
And, if not, would the Board entertain
closing the Public Hearing?
MS. NEFF: A motion to close the Public
Hearing.
CHAIRMAN MOORE: And could I have a
second?
MS. RATHBUN: Second.
CHAIRMAN MOORE: Any discussion? If
not, all in favor?
MS. RATHBUN: Aye.
MR. CORWIN: Aye.
MS. NEFF: Aye.
MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.
Any opposed?
(No Response)
And the motion carries, so the Public
Hearing is closed for Item #1.
So we will move on to the Public Hearing
#2. Now I may have to dig a little bit for
this. Public Hearing is for John Costello at

Flynn Stenography & Transcription Service
(631) 727-1107
the address 102 Broad Street, Suffolk County

Tax Map 1001-02-05-0292.

The Applicant proposes to build a second
story addition to an existing three-car garage
for an artist studio.

The height of the proposed second floor
is 20 feet, six inches, requiring a 5.6 height
variance. Section 150-13A(1)(a) of the
Village of Greenport Code limits the height of
accessory buildings to 15 feet.

The proposed location of the stair to
the second floor is located one foot from the
west property line, requiring a four-foot side
yard setback area variance. Section
150-13A(1)(b) of the Village of Greenport Code
requires a minimum of five feet from any lot
line.

I will just look in the file briefly as
far as the public notices. This was noticed
appropriately in the Suffolk Times. A placard
notice was in place, I gather, for the
required period of time, and the adjacent
property owners were notified. Oops, this is
not the right notice. I'm sorry. I saw
Richard Kearns on the notifications.
I'm not seeing the mailed notifications. I have the ones for the other two cases. And if you could look for me. I'm just looking here. (Eileen Wingate perused the file.)

CHAIRMAN MOORE: Oh, thank you very much. If you'd bear with me for a minute. So here are the notifications from the map. They basically are all of the directly adjoining properties and any properties across the street, and even to the far corners. And they are the LV Inn LLC, at 190 Sterling Street, the owner; Ronald Rose, and that is an adjoining neighbor by the address of 40 East 80th Street, New York; David Corwin, 639 Main Street; Eric Fry, 711 Main Street; Eve Jarrett, 93 Main Street, Southampton. I'm not sure of which property it is. Patricia and Carol Neary, another Merrick address, an adjoining property, and Beatrice Claudio, 22 Broad Street, Greenport.

I believe we did have some letters submitted, and I will find those in a minute here.

MS. NEFF: I have them, two of them.
CHAIRMAN MOORE: Yeah, I have them here.

Yup. I'll just catch up to them. I have them here. Oh, this is the file. Okay. Let me put those back.

There were two letters submitted; I believe they just came today. One is from Carol Neary, and it is -- I'll read into the record.

"I am the adjoining neighbor to the west of the proposed project at 102 Broad Street in Greenport.

I would like to inform the Board that I have absolutely no objection to the two variances being requested to raise the height of the garage to 20 feet, six inches to allow for an artist studio for Cynthia Pease Roe, the tenant and resident at the 102 Broad Street property, nor do I object to the side yard variance on the west side of the garage of four feet. Sincerely, Carol Neary."

Second one is Ronald Rose. He is the adjoining neighbor on the other side of the property.

"I am the owner and resident of 715 First Street in Greenport. I am the neighbor
on the north side of 102 Broad Street in
Greenport.

I understand that 102 Broad Street has
requested two variances to raise the roof of
their garage to 20 feet, six inches to allow
for an artist studio for Cynthia Pease Roe.

John Costello and Cindy Roe showed the
plans to me and my wife, Cynthia. We believe
that the plans for the new garage are a vast
improvement over the existing structure. We
believe that this will be a welcome
improvement to our lovely street.

We have no objections to the two
variances being requested. We have no
objection to raise the roof of the garage" --
"their garage to 20 feet, six inches. We have
no objection to the side yard variance on the
west side of the garage of four feet.

Please contact me if you have any
questions." Signed, Ronald Rose.

So those are the two letters. Perhaps
the Applicant or a representative could
comment on the application for a variance.

MR. COSTELLO: My name is John A.

Costello, and I am a 50% owner in that
property with Ms. Roe. And we are trying to
improve the property, and we've been trying to
improve the house. We've been working on
painting and trying to fix it up and bring it
up to today's standards.

The garage is not very nice looking for
that neighborhood. The pitch of the roof is
not conforming with any buildings on that
First Street area.

We also discussed it with these two
neighbors, showed them the plans, went over
with it, and showed them what the improvements
were intended to be. They are the adjacent
properties, one to the north and one to the
immediate west. They're the closest
neighbors.

We also approached the estate of
Beatrice Claudio across the street. She has
passed away. Even though we've sent a
notification, we went and made sure that they
were aware what was going on in the adjacent
neighborhood. And we -- they had a yard sale
there last week and we discussed it with them,
the executors of the estate, and they are
tickled to death over the improvement, but
they did not write a letter. We asked them if 
they could, it would be appreciated, but, you 
know, if they were for or against, but it did 
not occur.

Cindy Pease Roe, my partner in this, is 
also a tenant at Hanff's Boat Yard. She rents 
from there. I think she's up to date on her 
rent. And so in the wintertime Hanff's Boat 
Yard, it's not insulated, it's quite 
uncomfortable. And she could speak for 
herself on this issue, but she would also -- 
there's a lot of traffic down at Hanff's Boat 
Yard, working on wooden boats, restoring 
wooden boats. I have a machine shop down 
there, I have a welding shop down there, and 
there's quite a bit of traffic.

So what she intends to do here, she 
could tell you herself, and that was the 
purpose of raising the garage and 
accommodating a studio over it.

We went before the Historic Review Board 
and they basically were in approval of it 
under the condition that this Board approved 
it.

We discussed putting the stairs on the
back of the property, which required a
variance, and so that it could not be seen
from the road. I'd prefer, myself, not to see
it from the road. I would not want this to be
anything but the look of a cottage, and I want
the higher pitched roof. That has a
reasonably flat roof now.

This Board has attended and looked at it
and it's less than appealing, but it is what
it is. And it is a three-car garage, and we
intend to use it as a three-car garage.

We have adequate off-street parking for
the tenant, which is Cindy Pease Roe, and two
other apartments in the driveway, and we
intend to have that driveway used to keep it
off the street as much as possible.

Any questions this Board may have of me,
I'll do my best

CHAIRMAN MOORE: I would just have one
question at this point pertinent to the Public
Hearing, is on the drawings, I didn't see any
indications of plumbing improvements, whether
any plans are for bathrooms, other such
things.

MR. COSTELLO: Well, I would think in
this day and this age, I would hope that we
would put a bathroom in. I mean, she needs
running water. If you have to wash paint
brushes or do anything in a studio, you have
to have water. And I would presume that she
could also run to the house, which is probably
50 feet away, but some days that may not be
quite the thing you want to do.

CHAIRMAN MOORE: And I think the main
point of the question was that we're not
approaching any kind of outfitting that would
represent the structure as a residence.

MR. COSTELLO: It is not the intention,
that we have enough residential problems on
that -- and I can't speak that she wouldn't
sleep in it. You know, I could sleep in a
chair. I sleep in my office, which is not
residential, but I have fallen asleep there.
But that's -- there is no accommodations for
sleeping. There will be no intention of
having showers, which you would certainly
need. But I'm certainly -- you know, it's not
intended to be living quarters, except an
artist -- operating artist studio.

CHAIRMAN MOORE: Any questions from the
Board in reference to the Public Hearing part of the proceedings?

MS. NEFF: I have one. It's not the design to have the public visit the artist studio, it is an artist studio for work?

MR. COSTELLO: It is an artist studio for work. I can assure you that she will have friends, guests to come see her, but it's not going to be an operating business entity and to go up there and sell art, because she has that spot already. I hope she remains at Hanff's Boat Yard, I could use the rent.

CHAIRMAN MOORE: Okay. Thank you.

MR. COSTELLO: If you have any questions of Ms. Roe, I'm sure she would make every attempt to answer them.

CHAIRMAN MOORE: Any other comments from the owner's side of the request? Yes. You get to go first, and then the public can --

MS. ROE: Hi. I'm Cynthia Pease Roe, and I just wanted to talk a little bit about my use for the space.

I do have a commercial space at Hanff's Boat Yard. I have a sign out there. I meet the public there, and because of that, I need
private space to work. I have -- you know, I have liability insurance. I have everything that you need to be involved with the public down at Hanff's because of that. As I said, there's a lot of -- like John said, there's a lot of foot traffic in and out of the studio and it's hard for me to work privately. So I do need a private space, a home that I can work, also a place that is warm in the wintertime and cooler in the summertime, and, you know, that I can go outside my back door and I can go to work at night and stay as late as I want to work. And that's really the purpose of the space.

Any questions?

CHAIRMAN MOORE: No. We'll have the opportunity to ask direct questions later, but thank you.

MS. ROE: Okay. All right. Great.

CHAIRMAN MOORE: Any members of the public who had wished to speak? Yes, if you want to come up and identify yourself with name, and address, and affiliation, if appropriate.

MS. HORTON: Good afternoon. My name is
Gail Horton and I live at 727 First Street, three doors down from the property, and I've lived there for 45 years. I was there when it burnt down, when Jimmy Mitchell (phonetic), I guess, smoked a cigarette or something when he shouldn't have. And I was there when May and Phil Watson fixed it up and raised their family there and turned it into a three-family house. So I've been there a long time.

And I want to say I truly support this.

I, too, am an artist. I'm fortunate that I could add on to a part of my house and have my studio right in my home and it's really great, and show elsewhere, although people show up once in a while and want to see it. But I think it's very important to do this. I think the plans, as I see them, are an asset to our community.

I was at an affair last night and I was sitting with a real estate broker from Park Slope in Brooklyn and she was saying about Park Slope, how it's changed, and how the sales there are going. And she said, you know, the artists came in first and they really improved the -- and when artists come,
how much it attracts other people, and it's a positive thing to have an artist in your community.

And then I want to also say something about John Costello back there. You know, if more people were like John Costello, we would not need an Historic Preservation Board. I'm telling you, if you see what he's done on his own in the Hanff house and properties he's touched, we're lucky to have him here. And I believe, you know, wholeheartedly, between the two of them, who I know and they are my friends and my neighbors, I believe that -- I know they will do a good job. So I hope you consider it in their favor, and I thank you.

CHAIRMAN MOORE: Thank you. Are there other members of the public who wish to speak about this application?

(No Response)

If not, will the Board entertain closing the Public Hearing? Could I have a motion?

MS. NEFF: A motion to close the Public Hearing.

CHAIRMAN MOORE: And a second, please.

MS. RATHBUN: Second.
CHAIRMAN MOORE: Any discussion?

(No Response)

All in favor?

MS. RATHBUN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

Any opposed?

(No Response)

Motion carries, so that Public Hearing is closed.

The next is Hearing #3, Public Hearing for Richard Ward, 718 Main Street, Suffolk County Tax Map 1001-2-3-5. The property is located in the R-1 District.

The Applicant proposes to construct a second residential unit in an existing one-family house in the R-1 District. Section 150-7 does not permit any building to be used, in whole or in part, for any use except one-family detached, not to exceed one dwelling unit on each lot.

And, if I may, I will just read the notices. It was noticed in the Suffolk Times,
1 I believe. And looking just for the mailings
2 here. I hope I didn't file them with
3 something else. Could you assist on this?
4         MS. NEFF: Yes.
5         CHAIRMAN MOORE: I don't see the
6 notices. I'm looking for Eileen Wingate to
7 help. This looks to be two sets of Costello,
8 so --
9         MS. WINGATE: Beatrice Claudio. This is
10 Costello. This is --
11         CHAIRMAN MOORE: This is Costello.
12         MS. WINGATE: Okay. May I?
13         CHAIRMAN MOORE: Yes. Sorry about that,
14 but I just want to make sure we have it.
15 Thank you. Thank you.
16 So, again, it was the surrounding
17 properties. And first, of course, is the
18 Episcopal Church in Greenport; Eunice
19 Gardiner, 314 Manor Place, Greenport; Halina
20 Siemaszko, East Marion; Ronald Levin, 301
21 Manor Place; James Betz. There's a Jersey
22 City address, but apparently next door
23 neighbors. And Debra Shapiro and Kieran
24 Holohan, a New York address, and Carlos and
25 Patricia DeJesus, 754 Main Street, Greenport,
New York.

The property was also properly placarded, I notice, with a public notice.

And if the representative would like to speak about the project, you could do so.

Just be sure to identify yourself by name, address and affiliation.

MR. WARD: My name is Richard Ward. I'm the Warden and I'm the agent for this project for request for zoning variance for Holy Trinity Church, Greenport.

Is it necessary to read the response into the record?

CHAIRMAN MOORE: We will be looking into that. If you wish to give an overview of your feelings towards why your request is justifiable, that would help, then perhaps you could.

MR. PROKOP: It's not required. I mean it's part -- he submitted it as part of the application --

CHAIRMAN MOORE: Yes.

MR. PROKOP: -- I believe, so it's not required that he read into the record.

CHAIRMAN MOORE: I mean, if you would
like to just review your reasons for doing so
and what you're going to do with the property,
because it's a little in usual because of its
affiliation with the Church.

MR. WARD: Okay. Basically, the
parsonage, or what we call the rectory, which
was formerly called the rectory anyway, has
been -- we have not had a full-time Priest in
that house for some 23 to 25 years. Over the
years we've had Sextons that have lived there
that have maintained the property and have
worked for us. We're at a building point
right now where we're taking on a full-time
Pastor September 1st.

We have a Sexton that is doing
maintenance and actually rebuilding some of
our facilities through a capital campaign that
we have.

Long-term, we really do desire the two
apartments that we're requesting. Right now,
we have a single male Priest that's going to
come and stay at the house. As part of our
financial package with him and part of our
financial package with the Sexton and his wife
is that we provide housing.
These are two separate entities and we'd like to divide the house. If 25 years from now things change, I think we could open up a couple of doors, you could make it a house again. But our long-range projection of what we're seeing, when we go out and try to call a new Priest for our small parish, financially we're not capable of bringing in somebody that's looking for a large -- you know, a large congregation. Therefore, we need the ability to have housing for that -- for the Priest, we need -- in order to maintain our facilities.

And, actually, over the last year, and we have about another year or two to go, to bring them up to speed, we need Tom and Laurie's help to do that. We're kind of rebuilding from inside and trying to bring our facilities up to speed.

We have -- as far as the neighborhood goes, we're in a mixed area as it is. We just took down the fence that was put up some 25 years ago in the backyard to make just a lawn area. Across the street, directly across is the funeral home. Down the block is the
Eastern Long Island Hospital. If you're walking down Main Street, there's churches, there's a mix of some bed and breakfasts and two-family. Visually, the house doesn't change. Well, I'll say it doesn't change. We want to replace a couple of windows. We're not talking about any additions to the house other than interior changes to accommodate the Code and accommodate two separate entrances that are already there, to accommodate the two apartments.

So we think it's a wise use for our property to put one gentleman in there, one Priest in there, and try to heat and cool the place for such a big expanse of a building that's really not economically feasible to us.

Leonard, you want to say anything?

Leonard Dank is our Senior Warden, and he may like to add a few words at this point.

MR. DANK: Thank you. Ladies and Gentlemen of the Board, my name is Leonard Dank. I'm the Senior Warden of Holy Trinity Church.

In the Episcopal Church, as in all other Christian churches, there is normally a
Priest, a Pastor, a minister who runs the
curch. The two wardens in this case are lay
people, we're untrained, and we just usually
advise a Priest on perhaps things that are
going wrong, people's concerns. We're
assistants. We also raise the money so we can
pay the bills, and the Junior Warden normally
takes care of making sure that the buildings
are in good repair.

For the past 23 years we have been
without a Priest. We have had what in the
Episcopal Church is called a supply Priest. A
supply Priest comes in Sunday morning, he says
an 8 o'clock service, he hangs around for
coffee, he says the 10 o'clock service, and,
if he can, and there's somebody in the
hospital, he might go over and visit them and
he leaves. The rest of the week there's no
church, there's no minister, there's no
religious activity, there's no one to do it.

Perforce, when I became Warden, it
became quite clear that we were going to be on
a downward spiral. No church can exist with
lay people running it. It's a religious
institution. So now, with our old, very
old-fashioned former Diocesan Bishop, he insisted on a level of income, that we would have to pay anybody far above our dwindling supply, because as we were going down, the money was going down. And he kept saying, "You're going to need $170,000," just, you know. Also, he was very old-fashioned, he was not computer up-to-date. He would only assign priests within his own parish that he had control over. So, therefore, there were none, they were all assigned. There was no Priest. There was too much of a money demand.

Alleluia, God willing, four years ago we got a new young Bishop. We went to him, Dick and I, with not much hope, last April, April 15th -- 17th. We had lunch with his Adjutant General called a Canon to the Ordinary, and he said, "I don't know. You know, it's expensive to live out there if we get a young Priest with a young family." A few days later he called. "Wait a minute," he said, "there is a Priest in New Hampshire that's got the experience you need. He'll take a relatively low stipend, and he's eager. He's in a seafront neighborhood now and this would be
just" -- so he said, "Would you like to
interview him?" Quick fast forward, we did;
ideal. We came to a deal with him, but we
must supply him with housing.

As Dick said, Tom and Laura Wilson are
essential to our scheduled building program.
He's willing to work, since he doesn't pay any
rent, for a very reasonable fee. We priced
commercial things and it's like three to one,
you know. We could not keep up. As what
happened with Sacred Heart, they could not
keep up with their maintenance program. It's
now closed and going to be, hopefully, not
razed, because a 120-year-old building and
150-year-old church need constant maintenance.
So we cannot lose Tom.

We have to supply the Priest, a single
man, with modest needs with an apartment. The
no-brainer solution: Divide it up. With the
Village's permission, we can grow and reform,
and, hopefully, get into the future with a
great deal of confidence.

Thank you very much.

CHAIRMAN MOORE: Thank you. Before I
ask for any members of the public, I believe
there were no letters, correspondence received
in connection with this request, so we could
move right ahead to anybody from the
neighborhood, neighbors.

MR. CORWIN: I would like to ask a
question.

CHAIRMAN MOORE: Yes. Oh, I'm sorry.
Yes. We might have a question for you just
about the layout or the -- Mr. Corwin.

MR. CORWIN: Do you have square footage
of the first floor and the second floor of the
building?

MR. WARD: With the air conditioner, I
couldn't hear.

MR. CORWIN: Do we have footage of the
first floor and the second floor of the
building; do you have that available?

MR. DANK: Square footage. Dick, do we
have square footage?

MR. UELLENDAHL: The size of the
apartment.

MR. DANK: Well, we have the size. I'm
not sure the Architect put it down, to be
honest with you. No. But the building is
about --
MR. WARD: It's over -- I know that it's over 1,000.

MR. CORWIN: And let me ask Mr. Abatelli where the line is between one-family and two-family zoning.

MR. ABATELLI: Where the zone changes, I guess about a block or so south. It's kind of around where Webb Street is.

MR. KAPELL: It's the north property line of Townsend Manor.

CHAIRMAN MOORE: They're right in this little corner, and then this area is R-1, this little bit. This is where they are.

MS. NEFF: I know, I know where they are, here. There's many -- not many, but several two-family houses in this area along here. There are two or three, at least three.

MR. CORWIN: So these three, two are still one-family.

MR. ABATELLI: Excuse me, the transcriptionist isn't getting anything you're saying.

CHAIRMAN MOORE: Okay, sorry.

MR. CORWIN: I'm noting that three houses south of the Episcopal Church property
is zoned one-family, and I believe there's at
least one house there. I believe the DeJesus
house is a two-family house.

CHAIRMAN MOORE: Okay. So any other
direct questions during the Public Hearing
period for Mr. Ward from the Board?

MR. KAPELL: I have one piece of
information, Mr. Chairman.

CHAIRMAN MOORE: Could you have or add?

MR. KAPELL: Offer one piece.

CHAIRMAN MOORE: Yes, we'll open it to
the public, then. So if you'd like to come
up, and the public may make comments.

MR. KAPELL: Sure.

CHAIRMAN MOORE: Thank you.

MR. KAPELL: Dave Kapell, 400 Front
Street.

I have personal knowledge that in
addition to the DeJesus house being a
two-family house, the house at 744 Main
Street, which is the first house in the R-1
District and north of the Townsend Manor Inn
is also a two-family house.

CHAIRMAN MOORE: Okay. Thank you very
much.
Any other members of the public wish to make comment?

(No Response)

If not, I'll entertain a motion from the Board to close the Public Hearing.

MS. NEFF: I move that we close this Public Hearing.

CHAIRMAN MOORE: And a second, please.

MS. RATHBUN: Second.

CHAIRMAN MOORE: Denise Rathbun seconded. Any discussion? All in favor?

MS. RATHBUN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

Opposed?

(No Response)

Motion carries, so the Public Hearing phase of the meeting is now over.

I'm going to move on to the regular agenda, and I may have a few sort of review comments to make at the beginning of each of these cases. We're in a position to discuss and then potentially approve variances that
have been requested, should we wish to do so.

The first item is the application for
Arden Scott. And I did give a little bit of
an introduction before the Public Hearing as
to where we are. And if you'll bear with me
just for a minute, I need to find that file
again.

MS. NEFF: Which one are you looking
for, Arden Scott?

CHAIRMAN MOORE: Here it is. I'm sorry,
I turned it over. Just my own file with the
information in it.

I'd just like to give a review of things
that have occurred on this property and some
of the neighborhood issues. I think it's been
pointed out in past Public Hearings, and we
are now at the Board discussion phase, so it's
not part of the public input, that surrounding
this property are some commercial properties,
waterfront commercial across the street. The
hospital directly across from the property has
a large parking lot, which is a nonresidential
use. I don't know the status of that relative
to variances.

MR. CORWIN: Could you say that again?
CHAIRMAN MOORE: The hospital parking lot is across, I believe -- is that Monsell Place?

MR. UELLENDahl: Yes.

CHAIRMAN MOORE: The street?

MS. NEFF: Yes.

MR. UELLENDahl: Yes, it is.

CHAIRMAN MOORE: Yes. And there's a parking lot there. This property was granted a variance back, I believe, in 1973 for construction of a garage. It's a very unusual situation, and this was part of the reason that I would admit that the Board was somewhat confused which direction to go. There were some discussions of whether it was a principal building or an accessory building. Clearly, a studio is an accessory use, which is permitted in a residential district.

And I think we may have been splitting hairs a bit too much. The real issue appears to me to be an issue of an area variance, because the building is permitted to be there with an original use as a garage. It has been used as a studio for perhaps -- how many years?
MS. SCOTT: Fourteen.

CHAIRMAN MOORE: Fourteen years,
apparently without any challenge at any time,
and is now continuing to desire to still be a
studio, artist studio.

We, of course, are distinguishing a
studio from a gallery or an artist loft, which
is a combination of studio and auxiliary
residential use. This is strictly an artist
studio.

As far as the Board, I don't know if any
other comments would be desired. I think the
addition is certainly an improvement on the
appearance of the building. I'm just
expressing my personal feelings.

One of the issues that has been present
on that property, it has been used for storage
of commercial equipment, and the owner has
indicated that that equipment is exiting the
property and is expected to be entirely gone.
I think that also is a big improvement. And I
feel that while the use of the property in its
past as a garage was fairly passive, certainly
the use as a studio is along the same lines,
and perhaps considered even to be a less
intense use.

While it was described as a garage for personal purposes, it was Mr. Pell who owned the seafood business across the street and was clearly in support of a commercial operation, which is no longer the case. So those are my feelings.

Any other comments from the Board regarding this property and its use?

MR. CORWIN: Well, I'll make some comments. One is I'm not in favor of expansion of these nonconforming uses. And the Applicant has the opportunity to build a structure on the west side without needing any variance.

And the argument is, well, you have to have north light. And I was watching American History T.V. two weeks ago and they're going on about engraving, how back in the day they had to have the windows on the north side to do the engraving. I can't think of anything that's more difficult than engraving for currency. But they don't do that anymore because artificial lighting and the lighting available today is -- the color spectrum is
very good.

I'll also note that there has been some cleanup of the property, but it's certainly not finished.

When we were at the training session two or three months ago, I think one of the instructors said something to the effect that, well, yeah, you can give somebody something in exchange for getting something. So, if I knew that cleaning was going to go on and the fence was going to go, as it was said it was going to happen, I'd probably be a little more comfortable with the expansion of the nonconforming use.

And then what I'd really like to know, and maybe the Attorney can help me here, is when the property is sold, what kind of use is it going to revert to? I mean, when it's sold, is it going to be, well, it can be an artist studio, it can be a garage, or is it going to be a one-family residence? And do we have any control over what happens when a property is sold?

MR. PROKOP: Well, I was waiting for you to finish, but my recommendation would be that
1 if you grant a variance, you have a condition
2 that it not be used for -- as a residence or
3 habitation, and also that no retail activity
4 occurs at the building. If those were
5 conditions on the variance, they would pass --
6 those two conditions would pass to a new
7 owner, as would the -- as would the variance.
8 MR. KAPELL: Also, we have no objection
9 if you want to stipulate the continuation --
10 the completion of the cleanup and installation
11 of the fence. We can do that.
12 CHAIRMAN MOORE: And I believe there
13 would be even Code Enforcement issues that
14 could be brought into play for any nuisances
15 on a residential property in the first place,
16 because this is residential. I think when we
17 were discussing that it would not be used for
18 residential purposes, I think we're referring
19 to the garage and not the property in general.
20 MR. KAPELL: We have no intention of
21 occupying it as a residence.
22 CHAIRMAN MOORE: Yes.
23 MR. KAPELL: We have no problem with the
24 condition that we won't, and we also have no
25 problem stipulating that we'll complete the
cleanup and install the fence.

CHAIRMAN MOORE: Yeah. I don't recall if we had the discussion, but I kind of got the impression that the location of the addition on the north side, not only for light, left ample room to the west for construction of a conforming residential structure.

MS. NEFF: Absolutely.

CHAIRMAN MOORE: Which would then absolutely make this structure an accessory structure to a residence. And, you know, with that in mind, I wouldn't feel impelled to -- compelled to require that you satisfy your needs by doing it fully conforming.

I see, from my personal opinion, a 15-foot setback I think will be the result of the footprint of this new structure, which normally would be the setback required. But, in this case, because it's technically a front yard, it would normally be 30, so that relief is needed.

I certainly feel we could impose as stipulations no commercial activities, which includes the use as a gallery, as opposed to a
studio, and no commercial storage, and that
would be something we could add in our
decision document.

Are there questions or discussion from
the Board?

MS. NEFF: I don't understand a
stipulation to the effect that you can't store
your artwork. I mean --

CHAIRMAN MOORE: No, I'm sorry. I meant
the use of the facility for storage of
commercial equipment, which would normally be
a business use or an industrial use. I
certainly think that an artist with a studio
stores art at such place. Yes, go head.

MR. KAPEL: If I could -- I'd offer
this just to make it simple. We have no
problem abandoning the garage use, you know.
So, if you want to structure the approval such
that -- you know, that it's not going to
revert back to a garage or the storage
associated with the garage, that's fine with
us. The only thing Arden wants to do with
that building is create art.

CHAIRMAN MOORE: I think the discussion
is really revolving around commercial marine
fisheries equipment that's totally unrelated to residential or artist use, unless, of course, you use it as your materials (laughter).

MS. SCOTT: If I may.

CHAIRMAN MOORE: Yes.

MS. SCOTT: I did tell in February to the Phillips that I no longer want them to use the premises. And, you know, bit by bit (inaudible).

CHAIRMAN MOORE: She's having difficulty hearing you to record what you're saying.

MS. SCOTT: Oh.

CHAIRMAN MOORE: We're allowing you to speak at this point, so we do want to get it down.

MS. SCOTT: I said that the people, Phillips, who have been using it for storage were told in February that I no longer want them using it, and they said they would clear it out bit by bit; they have been.

CHAIRMAN MOORE: Very good. Thank you.

MR. CORWIN: I would just like to ask the Attorney again, because I'm a little slow, that the Zoning Board could put some kind of
restrictions on any variance that its use
couldn't revert to a garage or some similar
structure, that when it's sold, it would be
either a one-family residence or an artist
studio; can we do that?

MR. PROKOP: You know, in this case, I
don't -- you can put conditions on -- you can
put conditions on a variance which are related
to the relief that you're granting, but the
problem is, in this case, the building is a
garage. So I don't see how -- I don't see how
you could put a restriction on the owner or a
future owner that they can't use a garage as a
garage.

The reason why -- the only reason why
the studio really is being accommodated here
is because that it is a garage and that
uses -- one use that's often associated with a
garage is a noncommercial, nonretail use as a
studio, as the second application that we have
tonight.

MR. CORWIN: But what I'm asking is, can
we restrict the use, if it's sold, when it's
sold, as a garage as a commercial use?

MR. PROKOP: It could be restricted as a
noncommercial use, not a commercial garage,

you know, not a rental garage, owner -- it
could be restricted to owner-occupied only.

CHAIRMAN MOORE: I think one point to

make is if the use of this property was
abandoned totally as studio use and became
residential and a structure was built, this
could, indeed, become a residential garage in
connection with residential use. It is an
unusual garage because it's quite large, so
it's hard to imagine architecturally how
someone would preserve such a facility. The
facility looks like a commercial building, and
I think it would be fine to say that it could
not be used for commercial use.

MR. PROKOP: Right.

CHAIRMAN MOORE: That would be a
appropriate.

MR. CORWIN: My other question is,
Mr. Kapell and Ms. Scott has represented the
property is going to be cleaned up. But what
handle -- once we pass a variance, what handle
do we have to make sure that it's cleaned up,
if it's not cleaned up right away? Because my
experience is the Code Enforcement in the
1. Village has a lot of trouble getting people to clean up properties.

2. MR. PROKOP: Well, this Board had a -- we could give a time frame, you know, reasonable time frame that the Applicant is comfortable with.

3. And this -- you know, just to remind you, in the past this Board has done that in other application, and we actually had a variance that we rescinded because there was conditions attached to it that had to be done within a time period, and when they weren't done, we voted and actually rescinded that variance.

4. So, you know, I think that -- I think the Board can come up with a reasonable time period that's acceptable to the Applicant, and then you could revisit it at the meeting that's just subsequent to that time period.

5. CHAIRMAN MOORE: And there are time limits to the completion of construction relating to a variance, which is directly in the Code. And if we simply mirror that with the cleanup, that would go together, I believe.
MR. KAPEL: Can I make a suggestion?

CHAIRMAN MOORE: Yes, if you will.

MR. KAPEL: If we could have six months to complete the cleanup and make it -- you know, make it a requirement of the CO, we don't get a CO until -- again, we actually can't build the addition until the stuff is out of there because it's in the way.

CHAIRMAN MOORE: And I believe the Code calls for a six-month or a year time limit on construction, approved construction. One year?

MS. WINGATE: (Nodded).

MR. CORWIN: One year.

CHAIRMAN MOORE: Yeah, one year.

MR. ABATELLI: From start to finish.

CHAIRMAN MOORE: So that would be certainly permissible, I think.

So is the Board prepared to move ahead with a decision on a variance?

MR. CORWIN: Yes.

MS. NEFF: Yes.

CHAIRMAN MOORE: Okay. So we could do that.

The first item is that we would declare
the ZBA the Lead Agency in reference to SEQRA, and it would be a Type II Action requiring no further action. And I would make that motion and ask for a second.

MS. RATHBUN: Second.

CHAIRMAN MOORE: And any discussion?

(No Response)

All in favor?

MS. RATHBUN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

And opposed?

(No Response)

I don't have a chart, so I'm just going to have to record in hand here. Okay. And it's all in favor, yes.

So then we will go through the test questions. And I'll just take a break here for a minute because of the noise. I'll be right with you.

Okay. The first question is whether an undesirable change will be produced in the character of the neighborhood, or a detriment
to nearby properties will be created by the
granting of an area variance. And if
everybody would respond, please.

MS. RATHBUN: No.

MR. BENJAMIN: No.

MS. NEFF: No.

MR. CORWIN: No.

CHAIRMAN MOORE: No. And that's
unanimous.

Secondly, whether the benefit sought by
the Applicant can be achieved by some method
feasible for the Applicant to pursue other
than an area variance. And answers?

MS. RATHBUN: No.

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Rathbun said no, I
believe.

MS. RATHBUN: Yes, no.

MS. NEFF: The question is, if I could
remember, is -- is it available any other way?

CHAIRMAN MOORE: To pursue. Just
whether the benefit sought by the Applicant
can be achieved by some method feasible for
the Applicant to pursue other than an area
variance. In other words, to not require a
variance.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin?

MR. BENJAMIN: I would say yes.

CHAIRMAN MOORE: Yes? I would say no.

And you did say no or yes?

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Yes, okay. That's a yes, okay.

MS. RATHBUN: No. Wait, wait.

MR. CORWIN: Can you just call the names, please?

CHAIRMAN MOORE: Yes, I'll do that this next time, so we don't have confusion.

Whether requested area variance is substantial. Ms. Rathbun.

MS. RATHBUN: No.

CHAIRMAN MOORE: Mr. Corwin.

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No.

CHAIRMAN MOORE: I say no.

Whether the proposed variance will have
an adverse effect or impact on the physical or
environmental conditions in the neighborhood
or district.

Ms. Rathbun.

MS. RATHBUN: No.

CHAIRMAN MOORE: Mr. Corwin.

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No.

CHAIRMAN MOORE: I say no.

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

Ms. Rathbun.

MS. RATHBUN: Yes, but no.

CHAIRMAN MOORE: Yes. You can be
undecided. Mr. Corwin.

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.
MR. BENJAMIN: No.

CHAIRMAN MOORE: I would say yes.

And then lastly, I would -- I think I will organize the motion, because it's a little bit complicated. I'll be right with you. I have a piece of paper I want to pull out here.

I would propose that the Zoning Board of Appeals approve the application for the area variance as stated in the application, with the following conditions:

First, that no commercial activities would be carried out on the property, including use of the property as a commercial gallery.

And that there be no commercial storage of any equipment not related to the use as a studio.

And that there -- the efforts to clean up the property of the existing commercial materials being stored on the property would be completed in six months time.

And then that the use, of course, would carry as a studio if the property were sold, but that any other change of use would require
further application to the Board of Appeals if it were other than residential in the R-1 District.

And did I miss anything as far as the stipulation?

MR. PROKOP: Yes, there was -- I'm sorry.

CHAIRMAN MOORE: Did I miss anything?

MR. PROKOP: No -- yes. No C of O until the cleanup is completed.

CHAIRMAN MOORE: Yes. And the Certificate of Occupancy would be withheld pending, of course, completion of construction and the cleanup of the property.

MR. PROKOP: Including the fence removal. Is the fence --

MR. KAPELL: Replacement.

MR. PROKOP: Replacement.

CHAIRMAN MOORE: Replacing the fence.

With that proposed, I so move. Second, please.

MS. NEFF: Second.

CHAIRMAN MOORE: And all -- any discussion?

(No Response)
All in favor?

MS. RATHBUN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye. And,

Mr. Benjamin, did he answer as well? Aye, okay.

So the variance is approved.

MR. KAPELL: Thank you very much.

MR. UELLENDAHL: Thank you.

CHAIRMAN MOORE: Good luck to you.

Now, if you'll bear with me, I'll try and find the things that I've already displaced. There it is.

So the second is the application of John Costello. I will not read the whole part, but we are at the discussion phase at this point.

We have in the file two letters strongly supporting from the immediate neighbors who would be most affected.

It's my understanding that the structure that presently is there will be torn down and a new foundation installed. So there is some flexibility for reducing the amount of
variance requested.

And I believe that the building was
going to move, was it five feet off the line
to the north; is that correct?

MR. COSTELLO: It's 18 inches in each
direction.

CHAIRMAN MOORE: Okay. So there would
be no relief needed on the north, but you
would maintain the one-foot setback, which
would require a four-foot variance, due to the
stairs, which are proposed to be done on the
back of the building, west side. My personal
feeling is that --

MR. PROKOP: I'm sorry. Could you just
back up for a second?

CHAIRMAN MOORE: Yes.

MR. PROKOP: Before you get to personal
feelings.

CHAIRMAN MOORE: Yes.

MR. PROKOP: How did we get from a
public notice that says that there's going to
be an addition to an existing three-car garage
to an application where the building is going
to be torn down?

And then the second question for the
Building Inspector is if the building is going to be torn down, how do they get -- is any --

MS. WINGATE: Well, the words "torn down" were the first time I heard them today.

I've heard that it was going to be lifted and then held in place. So I did not -- I was completely unaware this was going to be a complete new construction. I knew that it was going to get a new foundation.

MR. PROKOP: I'm not --

CHAIRMAN MOORE: Okay.

MR. PROKOP: -- expressing an opinion.

I just want --

CHAIRMAN MOORE: Yes.

MR. PROKOP: The application and the notice should be factually correct.

CHAIRMAN MOORE: Okay. Let me ask a question and --

MR. PROKOP: And it's not unusual that we're, you know, surprised at the hearing, or we get new information at the hearing.

CHAIRMAN MOORE: Yes.

MR. PROKOP: So we just need to pin that down.

CHAIRMAN MOORE: Right. It appeared
that a second floor was being placed on an
existing structure.

MS. WINGATE: On an existing structure, yes.

CHAIRMAN MOORE: Let me ask the Village
Attorney, what are the implications if the
structure were torn down, but a variance has
been granted for that setback? Is there any
issue of a new structure that would bring up
any other variance issues?

MR. PROKOP: Only is the new structure,
is it going to be replaced in kind? Is it a
replacement in kind, or what is it?

MS. WINGATE: It's -- well, there are --

MR. PROKOP: But do you know? I mean,
if you don't know --

MS. WINGATE: Well --

MR. PROKOP: I guess you didn't ask me
that, but --

MS. WINGATE: -- it's supposed to be
exactly the same size, but they were moving it
to conform. I was aware that they were moving
it to conform, yes. But the Code also says
you can reconstruct an existing building. I
mean, if you go --
MR. PROKOP: If you know about it, I mean, you have to -- the Building Inspector has to at least know it's going to happen, as compared to building --

MS. WINGATE: This is true.

MR. PROKOP: As compared to building a second story addition.

MS. WINGATE: I believe that the building is solid enough to handle, with modification, of course, but I believe the building is solid enough to handle a second floor. If they're going to tear it down --

MR. PROKOP: What does that have to do -- he already told you that he was going to tear it down, so what does that have to do with it?

MS. WINGATE: That happened tonight, Joe. I was told the original building was moving.

CHAIRMAN MOORE: On the site, there's a -- we became aware that there wasn't an actual adequate foundation under the building. I think it's actually posts in the ground on bricks.

MS. NEFF: Right.
MR. COSTELLO: There's posts in the center, and a brick foundation around the perimeter.

CHAIRMAN MOORE: So that is necessary to replace. And as far as I can tell, the fact that a building is being replaced, as opposed to rebuilt, doesn't change the degree of variance that's necessary. It still requires an area variance for both the setback and the height. I can't think myself if another --

MR. PROKOP: So the Building Inspector, she should be --

CHAIRMAN MOORE: Yes.

MR. PROKOP: Either you or I, the Building Inspector, she needs to tell us whether or not they're losing -- whether or not there's any nonconformity, that they lose the right to -- by the removal of the building.

MS. WINGATE: Well, it's stated right here in Section 150-21A, that nothing in this article shall be deemed to prevent home maintenance, repair, structural, alteration, moving, reconstruction or enlargement of a nonconforming building.
So it's in our Code, that whether they can rebuild this building or build a completely new one. As long as it's the same building, it's the same variances.

MR. PROKOP: So you've seen the plans for the new building and you --

MS. WINGATE: I have not.

MR. PROKOP: And you're opinion tonight is it's a reconstruction, is that what you're saying?

MS. WINGATE: From what I've heard this afternoon, it sounds like it's going to be reconstruction.

CHAIRMAN MOORE: As far as I know, the only increase in nonconformance --

MS. WINGATE: Is the stair.

CHAIRMAN MOORE: -- is the stair.

MS. WINGATE: And they're asking for that.

CHAIRMAN MOORE: Which is part of a reconstruction or a new construction. The north face of the house is actually, I believe, or the garage -- I'm sorry -- being brought into conformance because it's moving south a small amount. So, in a way, we're
kind of increasing one way and decreasing the other way.

The height of the building I thought would be an issue, as far as reaction by neighbors. And, actually, the neighbor to the north, in their correspondence which I read, actually fully supported that.

MS. NEFF: Right.

CHAIRMAN MOORE: And I assume they are aware of the scale of 20 feet, six inches, and that's at the peak. It's a building that dormers, but it has the appearance of a peaked roof building.

And it is an improvement, certainly, in appearance, and that was supported by the neighbors' letters.

Any other considerations?

(No Response)

I believe one of the issues, too, was the amount of utilities to be installed, and the indication is there could be a bathroom. There's no indication of any kitchen or other residential type items in the building. So it would remain as a garage with an artist studio.
And I think, again, the same dialogue
can occur regarding stipulations which would
restrict commercial activity at the site.

MR. BENJAMIN: There's just a question
the way this was proposed. So it was proposed
to build a second story addition. But then,
when we got to the site, it was a tear-down
and rebuild.

CHAIRMAN MOORE: Yes.

MR. BENJAMIN: So the proposal should
say tear down and rebuild, because that's what
we're looking at.

CHAIRMAN MOORE: And as far as I
understand, the lower level of the building
will remain a three-car garage.

MR. PROKOP: No, it's going to be --
it's not going to remain anything, it's not
going to be there.

CHAIRMAN MOORE: Well, I mean the
continuing use of the structure will be a
three-car garage on the main level.

MR. BENJAMIN: It's going to be used the
same way and everything, but it's --

CHAIRMAN MOORE: It will be new.

MR. BENJAMIN: It's just the way it's
presented, that's all.

MR. PROKOP: I'm sorry, I don't mean to
be a stickler, but we can't -- the Zoning
Board can't be the front line of reviewing
building applications. And in the past, we
actually had -- we actually had an application
for a height variance for a garage, which
ended up, if we -- if you looked at the plans,
it was actually not even a garage, it was a
cottage or something.

So it's very important that we get these
things straight --

CHAIRMAN MOORE: Okay.

MR. PROKOP: -- when they're presented
to the Board.

CHAIRMAN MOORE: How would you propose
we correct the deficiency that exists,
simply --

MR. PROKOP: And I don't mean -- this is
definitely not a reflection of Mr. Costello --

CHAIRMAN MOORE: No, no.

MR. PROKOP: -- in any way, or the
application. I don't mean to --

CHAIRMAN MOORE: So I would suggest, to
move this forward, that we could simply, in
the decision document, relay the fact that it is a reconstruction rather than an addition, and that should any issues arise relative to the Code that pertain to a new structure would have to be returned to the Zoning Board, which, of course, we don't anticipate there are any. Does that --

MR. PROKOP: That's fine.

CHAIRMAN MOORE: -- seem to be the simple solution? Does that sound straight?

MR. PROKOP: And I just had one other question for the Building Inspector on this application and the next one. Have you reviewed the plans with respect to the Uniform Code? Are all the -- does this application -- if we grant the variance and it's built according to the plans, does it meet all the requirements of the Uniform Code as far as height, area --

MS. WINGATE: Are you talking about this particular one?

MR. PROKOP: -- the stairway?

MS. WINGATE: I don't do Code plan review until there are construction drawings. These are not construction drawings. People
don't want to invest in construction
drawings --
MR. PROKOP: Okay.
MS. WINGATE: -- until they get their
variance.
MR. PROKOP: Okay. Thank you.
MS. WINGATE: These are not construction
documents, these are schematics.
MR. PROKOP: But the next application is
not construction, it's an existing -- it's
already broken out, right? So you can -- if I
can -- If I'm going to ask you the same
question in a few minutes --
MS. WINGATE: It would be a completely
different answer.
MR. PROKOP: Okay. Thanks.
MS. WINGATE: Completely.
CHAIRMAN MOORE: Okay. Any other
discussion from the members of the Board?
(No Response)
Okay. So would you be prepared to move
forward with the approval, or the evaluation
and potential approval? Yes?
MR. BENJAMIN: Is that -- we need to
reword the application or --
CHAIRMAN MOORE: No, that we would move forward with the requested variance relative to the area variance as requested. And I think, along the course of that process, that we would stipulate, one, no commercial activity in the accessory structure, and that the reconstruction, because it is reconstruction and not an addition, that if any new issues regarding zoning and variance requirements arise, would require a review by the Zoning Board of Appeals.

MR. PROKOP: And what about -- excuse me -- no habitation or use as a residence?

CHAIRMAN MOORE: And, of course, it would be nonresidential use.

MR. PROKOP: And if there's a bathroom installed, that it's not a -- a bathroom does not include either a shower or tub.

CHAIRMAN MOORE: Okay. So based on those directions that we're heading, would the Board be prepared to move forward with a decision?

MS. NEFF: Yes.

MR. CORWIN: And I would be recusing.

CHAIRMAN MOORE: Oh, yes. And we
discussed this when we scheduled the hearing. Mr. Corwin, who has, obviously, moved out of my site, is recusing himself because of some business relationships with Mr. Costello, so he's not participating. My apologies, I forgot.

So, with that in mind, I would then move forward. And the first issue is that the ZBA declares itself Lead Agency relative to SEQRA, declaring it a Type II Action. And I'll make that motion, seeking a second.

MS. NEFF: Second.

CHAIRMAN MOORE: And all in favor?

MS. RATHBUN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: And Aye.

So that's unanimous without Mr. Corwin.

And just bear with me for a minute so I can write some initials here.

And the next is that we are evaluating the basis for the area variance.

Number one is whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby
properties will be created by the granting of
an area variance. Ms. Rathbun.

MS. RATHBUN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No

CHAIRMAN MOORE: I say no.

Number two is whether the benefit sought
by the Applicant can be achieved by some
method feasible for the Applicant to pursue
other than an area variance.

Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No.

CHAIRMAN MOORE: I would say no.

Number three, whether the requested area
variance is substantial.

Ms. Rathbun.

MS. RATHBUN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: Yes.
CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No.

CHAIRMAN MOORE: I would say no.

Fourthly, whether the proposed variance will have an adverse effect or impact on the physical and environmental conditions in the neighborhood or its district.

Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: No.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: No.

CHAIRMAN MOORE: I would say no.

And then Number 5, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Ms. Rathbun.

MS. RATHBUN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: Yes.

CHAIRMAN MOORE: Mr. Benjamin.
MR. BENJAMIN: No.

CHAIRMAN MOORE: I would say yes.

And then, lastly, I would make a motion that we approve the area variance requested, as written in the application, with the stipulations that no commercial activity take place at the site; that it be used only for nonresidential accessory uses; that no shower or tub be installed in a bathroom, if so installed; and, lastly, that as a result of our deliberations, that reconstruction of the building, tear-down and reconstruction will be done; and that we would stipulate that if any issues regarding reconstruction relative to Zoning Code would require a re-review by the Zoning Board of Appeals, should such issues arise.

And with that motion, I would make that motion and ask for a second.

MS. NEFF: Second.

MS. RATHBUN: Second

CHAIRMAN MOORE: And all in favor? And polling, Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Ms. Neff.
MS. NEFF: Yes.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: And I will vote yes.

So the motion carries, and so the variance is approved. And good luck on your reconstruction.

MR. COSTELLO: Thank you.

MS. ROE: Thank you.

CHAIRMAN MOORE: So, once again, bear with me. Good luck on that.

MS. ROE: Thank you.

MR. COSTELLO: Thank you.

CHAIRMAN MOORE: I'm sorry, I forgot that you had already notified me on that.

Okay. Moving right along, this is a very interesting case. We're moving on to Item #3, which is the application of Richard Ward, on behalf of the Episcopal Church, for a variance. This is actually a use variance, so we will have a separate set of questions.

I would like to engage in a little discussion. One issue the Village Attorney recommended I check on, and he can perhaps fill me in a little bit further, is a, I
believe, Federal act, which if -- I'm not sure of the pronunciation of the acronym, but it's RALUPIA (phonetic)?

MR. PROKOP: RLUIPA.

CHAIRMAN MOORE: RLUIPA. And it's the Religious Land Use and Institutionalized Persons Act. And I'll just read the general rule to set us in the right state of mind, and this has to do with governmental interference with religious activities.

The general rule is that no government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person, including a religious assembly or institution, unless the government can demonstrate that imposition of the burden on that person, assembly or institution is in furtherance of a compelling government interest, and is the least restrictive means of furthering that compelling government interest.

My assessment of the compelling government interest would be to maintain the even application of the Zoning Code. And I
don't know how compelling that is, but I think there's a certain amount of relaxation that can be accommodated in looking at the religious institution.

This building, as proposed, because it is in the R-1 District, and it is, I believe, on a separate tax map parcel --

MS. WINGATE: (Shook head no).

CHAIRMAN MOORE: It's all one property with the church.

MS. WINGATE: (Nodded yes).

CHAIRMAN MOORE: Aha. Okay. So that's even a different issue. We have a single property which includes the church property and the residence.

The church seeks to better use the property for a dual occupancy, which is not permitted in an R-1 District, but it is recommending that they would like to do this without any physical changes to the outside of the building to accommodate the needs of both their residents' needs for the Warden, I believe, and also the Sexton.

MR. DANK: The Sexton.

MS. NEFF: Sexton.
CHAIRMAN MOORE: Sexton and --

MR. WARD: Priest and the Sexton.

MS. NEFF: Priest and the Sexton.

CHAIRMAN MOORE: And the Priest. So this is --

MR. WARD: Two employees of the church.

CHAIRMAN MOORE: Of the church.

MR. WARD: Yes.

CHAIRMAN MOORE: So, in a way, we would be looking at the impact of this, and this to me seems a reasonable allowance, which would result in a granting of a use variance for the church property.

We have the ability, when considering such a variance, to issue some stipulations, and the one that would come immediately to my mind is that this allowance would only continue so long as the church maintained the residence for use by the church employees.

And, secondly, that if in some way this parcel were separated from the church property to be sold for private use, that it would have to revert to the requirements of the zoning district. That is somewhat simplified by the fact that it is not already a separate
MR. WARD: Yes, that's reasonable.

CHAIRMAN MOORE: So it makes it, you know, even more difficult that that could happen. And we had one property, we have it used for church purposes, and they're now looking to expand that use.

I think it's certainly a unique situation that's not replicated in the neighborhood on any private properties. And based on that, I would recommend that we move forward with the process of considering granting that variance.

Other discussion by members of the Board?

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: Yes, Mr. Benjamin.

MR. BENJAMIN: Granting a use variance have to do with finances?

CHAIRMAN MOORE: Yes, in a different set of criteria.

MR. BENJAMIN: So we need financial documents?

CHAIRMAN MOORE: Yes.

MR. PROKOP: The problem is -- the
problem here is that we have a, you know,
obviously not-for-profit organization, you
know, in its truest sense, and with no profit
motive and -- or everyone profit allowance,
because there's not even a profit allowed for
the institution. So the -- and that faces
the -- you know, the application of the
criteria that comes to the use variance, where
we are supposed to -- we're supposed to look
at the return on the property versus -- now
versus afterwards, and to conclude that
there's no reasonable return that could be
obtained where the property is. The problem
is that there's really no return at all now.
However, the Applicant has mentioned --
MS. NEFF: Can I just mention --
MR. PROKOP: Sure.
MS. NEFF: -- that in a way we are
talking about financial aspects here. We're
talking about very significant ones that
enables the church to give to employees
housing, which is a financial consideration.
MR. PROKOP: That's exactly what I was
going to say.
MS. NEFF: Okay.
MR. PROKOP: I think that's very important, and thanks for bringing it up. So there really is a financial hardship that they put on the record, which is, basically, it's the only way that they can exist. You know, their future really is dependent on the financial benefits that will accrue from this, and I think that that's sufficient.

CHAIRMAN MOORE: Yes.

MR. PROKOP: Especially given the inner play of RLUIPA.

CHAIRMAN MOORE: And we would still be granting a variance rather than giving --

MR. PROKOP: Yes.

CHAIRMAN MOORE: -- a pass. So we would grant a variance.

And there has been, as you indicated, a general reference to the financial hardship because of the structure of the church and the difficulties.

MR. BENJAMIN: That's why I was thinking when they were speaking, that it sounds like they're applying for a use variance, but without the documentation, you know what I'm
saying? There's no --
CHAIRMAN MOORE: I understand.
MR. BENJAMIN: There's no physical
papers that say that.
CHAIRMAN MOORE: Yes. Well, I think
based on the --
MR. DANK: There is. We have a contract
that states that we must supply housing.
There's a certain stipulation, so it is in the
contract that we must.
CHAIRMAN MOORE: And I think what the
Board can do in their consideration is balance
the amount of information about the financial
issues concerning use of the property and the
viability of the church, you know, against the
fact that it's an institutional use,
nonprofit. So would the Board be prepared,
pending any other discussion, to move ahead
with the decision process?
MS. NEFF: I just want to point out the
prominence of that area of Main Street, the
fact that it is mixed kinds of things
happening there. I live very nearby, and that
the church, through the many activities that
the -- especially their hall supports, they
provide an enormous value of stability in
serving the community. And that if this is a
change that makes it more possible for them to
sustain themselves, that we should -- our site
visit confirms that and your information
confirms that.

CHAIRMAN MOORE: Is the Board prepared
to move forward, then?

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Yes? Okay. So the
first issue is that we would once again
declare the ZBA the Lead Agency referencing
SEQRA, and that it would be declared as a Type
II Action, requiring no further review. So
moved. And may I have a second, please?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MS. RATHBUN: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: And I say yes. That's
across the Board. And now the questions are a
little different, so listen carefully.

The Applicant cannot realize a
reasonable return, provided that lack of
return is substantial, and as demonstrated by
competent financial evidence.

And, as we discussed, we are taking into
consideration the issues of the unique
properties of not only the finances, but the
type of institution we're talking about. With
that in mind, I'll poll the Board. And
Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: And the yes is that
they cannot. So yes? What was your answer?
I just want to straighten out the direction.

MR. CORWIN: You're going to have to --

CHAIRMAN MOORE: Yes.

MR. CORWIN: -- read the question again.

MS. NEFF: You're going to have to read
it again.

CHAIRMAN MOORE: The Applicant cannot
realize a reasonable return, provided that
lack of return is substantial, as demonstrated
by competent financial evidence. And the yes
answer indicates that they cannot.

So, Ms. Rathbun.

MS. RATHBUN: Yes.
CHAIRMAN MOORE: Yes. Mr. Corwin.

MR. CORWIN: Well, I don't know where the financial evidence is, but a church being a church, none of them seem to have a lot of money, so I'll say yes.

CHAIRMAN MOORE: Okay. Ms. Neff.

MS. NEFF: Yes.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: And I say yes. And, secondly -- these are a little more in line -- the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the direct -- district or neighborhood.

Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Mr. Corwin.

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: Yes.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: I would answer a yes. That the requested use variance, if
granted, will not alter the essential
close of the neighborhood.
    Ms. Rathbun.
MS. RATHBUN: Yes.
CHAIRMAN MOORE: Mr. Corwin.
MR. CORWIN: Yes.
MS. NEFF: Yes.
CHAIRMAN MOORE: And Mr. Benjamin.
MR. BENJAMIN: Yes.
CHAIRMAN MOORE: And I say yes.
And then the alleged hardship has no-
been self-created.
    Ms. Rathbun.
MS. RATHBUN: Yes.
CHAIRMAN MOORE: So you're saying it has
not been self-created, yes. And Mr. Corwin.
MR. CORWIN: No.
CHAIRMAN MOORE: Ms. Neff.
MS. NEFF: No.
CHAIRMAN MOORE: Mr. Benjamin.
MR. BENJAMIN: Yes.
CHAIRMAN MOORE: And I would say yes.
That's a difficult direction.
MS. NEFF: Yeah. I'm not sure I voted
right.
CHAIRMAN MOORE: Those are the four questions. They're very difficult because they're a bit upside down.

And then, lastly, I would make a motion that we approve the area variance as requested for the --

MR. BENJAMIN: Proposed use variance.

CHAIRMAN MOORE: Did I say "use"?

MR. BENJAMIN: No.

MS. NEFF: You said "area".

CHAIRMAN MOORE: I'm sorry. The correction, use variance, for the construction of the two residential units in the church residence. And the stipulations would be that it be occupied only by employees of the church. And I was trying to think if there was another restriction that we were applying. That the property --

MR. CORWIN: If the property was divided or sold --

CHAIRMAN MOORE: Okay.

MR. CORWIN: -- that the variance would disappear.

CHAIRMAN MOORE: Okay. So, if the property were divided and sold, as Mr. Corwin
said.

MR. CORWIN: Divided or sold.

CHAIRMAN MOORE: Yes, that the variance would not longer be in effect.

MR. CORWIN: Right.

CHAIRMAN MOORE: And we would then assume -- and the use would have to revert to the requirements of the R-1 District.

With that, I would make that motion with those conditions. And may I have a second, please?

MS. RATHBUN: Second.

MS. NEFF: Second.

CHAIRMAN MOORE: And all in favor? By roll call would be Ms. Rathbun.

MS. RATHBUN: Yes.

CHAIRMAN MOORE: Mr. Corwin.

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff.

MS. NEFF: Yes.

CHAIRMAN MOORE: Mr. Benjamin.

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: And I would vote yes. So the use variance is approved, and I hope you'll do a lovely apartment.
MR. DANK: Thank you very much.

MR. WARD: Thank you.

CHAIRMAN MOORE: Okay. Now the rest is

a bit more administrative, but we do have some

additional approvals.

How is your time line, Ellen? Are you

okay for --

MS. NEFF: I'm going to leave. I need
to leave.

CHAIRMAN MOORE: Yes, okay. That would

be fine, actually.

MS. NEFF: I can now, can't I?

CHAIRMAN MOORE: Okay. And, yes, you
could.

So we are down to Item #5, and this is a

motion to provisionally accept an application

for an area variance, administratively

forwarded from the Planning Board, and pending

official vote of the Planning Board, to

schedule a site visit, and to schedule a

Public Hearing.

The Applicant, James Olinkiewicz, is

seeking Planning Board approval of a

subdivision which requires ZBA variances for

property located at 221 Fifth Avenue,
Greenport, New York, Suffolk County Tax Map 1001-4-4-29. I will read what is being sought.

The Applicant seeks to subdivide the property into two new lots and construct a two -- a new two-family residence on one new lot, requiring area variances as follows:

Lot #1, which is to the north, the proposed subdivision creates Lot 1, which is 6,587 square feet, where Section 150-12A requires a minimum lot size of 7,500 square feet, requiring a variance of 913 square feet.

The proposed lot width is 47.82 feet, where Section 150-12A requires a minimum lot width of 60 feet, requiring an area variance of 12.18 feet.

The combined side yard setback for the proposed new construction is 22 feet, requiring a three-foot combined side yard area variance. Section 150-12A of the Village of Greenport Code requires a 25-foot combined side yard setback.

Lot #2: The proposed lot width is 52.35 feet, where Section 150-12A requires a minimum lot width of 60 feet, requiring a variance of
And, finally, the proposed combined side yard is 17.9 feet, where Section 150-12A requires a combined side yard setback of 25 feet, requiring a variance of 7.1 feet.

Just as a little background, this application was before the Zoning Board pretty much intact as it was originally proposed.

The difference is that Mr. Olinkiewicz proposes to proceed with building a structure on the new lot, as opposed to subdividing it with later construction considered.

So, with that in mind, I would suggest that we schedule a site visit for next month. The meeting would be on August 21st.

As we have one other item, which I skipped and I'll go back to, to consider.

We would schedule this visit for probably 4:40 on August 21st. And with that in mind, is everybody available on that date that we could do the site visit? And then, if everybody is available, I would make a motion to --

MR. CORWIN: Question.

CHAIRMAN MOORE: Yes, go ahead.
MR. CORWIN: Motion to provisionally accept. What does that mean, "provisionally accept"?

CHAIRMAN MOORE: Well, let me explain. The Planning Board did not have an official meeting due to a lack of a quorum. The Chairperson of the Planning Board administratively forwarded the application to us pending its official approval for forwarding at their work session, which will be towards the end of July. With that in place, we could then have proceeded with the site visit. And what we're trying to do is save a little bit of time on the submission cycles. The Village Attorney, I think, indicated that was a permissible path to follow.

MR. PROKOP: Right. If it comes up on our calendar and for some reason the Planning Board has not had an official meeting and denied it with a quorum, then we'll have to table it. But, in the meantime, you know, they have two meeting dates pending, and, hopefully, at one of those meetings, they'll have a quorum and be able to deny it, so we'll
have jurisdiction to conduct a hearing and act
on it.

CHAIRMAN MOORE: One thing that comes
up, because this is now a more complicated
process, the Planning Board also has this
application before them for approval of the
subdivision itself. We, I think, can benefit
from input from the Planning Board. And,
again, in the aspect of the time and delaying
proceedings, I would hope that the Planning
Board, at their work session, could discuss
this application to give their general
references about issues that may arise
relative to the subdivision aspects, and that
they could provide that to us before we
deliberate. Is that possible?

MR. PROKOP: Right. What you normally
would do is to vote to -- vote to authorize
Chairman Moore to send a letter to the
Planning Board asking them for their
recommendations on this application, and any
discussion.

CHAIRMAN MOORE: You know, prior to
our --

MR. PROKOP: Yes.
CHAIRMAN MOORE: -- consideration.

Okay. So I would then make that motion. I'm sorry, go ahead.

MR. CORWIN: I'm still trying to understand this.

CHAIRMAN MOORE: Yes.

MR. CORWIN: A motion to provisionally accept, I understand that. Administratively forward it from the Planning Board, pending official vote to schedule a site visit and to schedule a Public Hearing.

CHAIRMAN MOORE: Yes.

MR. CORWIN: So that means the Planning Board is going to have a site visit and Public Hearing.

CHAIRMAN MOORE: Oh, no, that meant for us, for the ZBA. Yes. I'm sorry. That maybe could be worded differently.

What we're asking is that we are accepting -- okay. So what we're doing is simply, we can't officially accept until the Planning Board forwards it, so we are provisionally accepting it. And as soon as they --

MR. CORWIN: So we're going to --
CHAIRMAN MOORE: -- forward it to us.

MR. CORWIN: -- authorize the Zoning Board of Appeals to have a site visit and a Public Hearing.

CHAIRMAN MOORE: That's correct.

MR. CORWIN: That's what we're doing here.

CHAIRMAN MOORE: Yes.

MR. CORWIN: So this is a do-over of what we did already.

CHAIRMAN MOORE: Yes.

MR. CORWIN: And I don't understand the purpose of this, because, as I read the Subdivision Law, I saw nothing in there where it said it had to go to the ZBA, and the ZBA had to approve something prior to or in conjunction with the Planning Board's decision.

CHAIRMAN MOORE: I believe the Planning Board can't make a decision if a variance is required for whatever they're approving.

Variances have to be approved prior to the Planning Board approving a site plan.

CHAIRMAN MOORE: So the ZBA has to make a site visit, have a Public Hearing, then
approve the variances, then it goes back to the Planning Board, and they can make -- they're going to have to have a Public Hearing, too, right?

MR. PROKOP: Yes.

MR. CORWIN: And a site visit, and then they can approve or not approve the subdivision.

MR. PROKOP: That's correct.

MR. CORWIN: And now they could approve or not approve regardless of what the ZBA says. In other words, if the Zoning Board says no to the variances, that doesn't stop the Planning Board from saying, "Yeah, you can subdivide it."

MR. PROKOP: No. If the ZBA says no, then the application is dead, it cannot go back to the Planning Board. Planning Board will not have jurisdiction to hear the application, because it proposes substandard lots. If they -- only if the ZBA says yes can it go back to the Planning Board, and the Planning Board is not bound to say yes. The Planning Board, even if the ZBA approves it, the variances, the Planning Board can still
deny the application.

CHAIRMAN MOORE: And what I'm additionally asking, because we're not actually requesting a joint meeting, which I don't really think is appropriate here, we're asking that we get some indication from the Planning Board, from their assessment at their work session, that they could give some indication to us as to any issues they may have regarding the subdivision, because they are actually the subdivision adjudicating body. So, to avoid the complication, I would like some input from the Planning Board in advance of our decision.

MR. CORWIN: Now what is their schedule? When is their next work session and when is their next meeting where they're going to vote on anything?

CHAIRMAN MOORE: I believe the twenty something, 28th?

MR. PROKOP: Twenty-seventh, and the -- it's the last Thursday and the first Thursday.

MR. CORWIN: So the last Thursday is going to be their work session.

CHAIRMAN MOORE: And then they'll have a
regular session the first Thursday of August, and then our proceedings won't occur until August 21st.

Now, they won't officially be able to make a determination on a subdivision, obviously, but they will be able, I believe, to look at the application, and, on my request, if the Board authorizes me to write a letter, I can get some input from the Planning Board, which seems to be the right way to do things.

MR. PROKOP: The other thing that you could do is in Item #5, the motion could be to schedule the Public Hearing based on a denial by the Planning Board by whatever that date is, August 1st, or whatever that date is. And then in the event that they don't deny it, there's not a public -- there's no Public Hearing for another month.

MR. CORWIN: You lost me on that one.

CHAIRMAN MOORE: In other words, they're looking for a specific action of the Planning Board directing the application to us, which in a sense is denying further progress on the subdivision, pending a variance by the ZBA,
and that has not officially been done yet. So
that if that doesn't happen at the end of the
month, we can't proceed with the variance
consideration.

MR. CORWIN: Right. Now what's the
status of -- I guess there's no status at this
point in time, because there's not an
official, including this motion, but what's
the status of notification to the neighbors
and posting signs, and that kind of stuff?

CHAIRMAN MOORE: Okay. We would --

MR. CORWIN: -- and are both parties,
the Planning Board and the ZBA, going to make
separate notices and postage of signage, and
blah, blah, blah?

MR. PROKOP: Yes.

CHAIRMAN MOORE: Each Board has a
requirement for public notices, and that
includes placarding for both Planning Board
and ZBA. And as part of our preparation for a
Public Hearing, the newspaper, notification of
neighbors and placarding would be part of the
process.

MR. CORWIN: Okay.

CHAIRMAN MOORE: So that has to occur
this next month.

MR. CORWIN: Now you're going to notify the neighbors, because you promised to. But is there time to do that yet, or are you going to wait until the Planning Board officially sends this to us?

CHAIRMAN MOORE: I think we have time for the Planning Board to officially act. They're expected to vote at their work session.

MS. WINGATE: Which is next Thursday.

CHAIRMAN MOORE: Which is next week. And, at that time, a decision could be made to issue the notices in plenty of time for our meeting, which is August 21st.

MR. CORWIN: But notwithstanding the notices, you made a promise to the neighbors that you would keep them informed.

CHAIRMAN MOORE: Correct, and that is what we'll do. I would suggest that when we make the notification of the neighbors, that we request the Building Inspector to provide an expanded radius of neighbors, perhaps to include the entire block, as we've done in the past. It puts an additional burden on the
property owner, because he has to send all of
those, but that would certainly inform the
neighbors, plus I would expect that if they
saw a sign, they would pay attention

MR. CORWIN: Right. We're on the same
wavelength there --

CHAIRMAN MOORE: Yes.

MR. CORWIN: -- because, as I remember,
we specifically said to the neighbors, "We'll
let you know what's going on." And I don't
consider the official notice in the mail as
the same thing. In other words, should the
neighbors be told now this is in progress,
and, "We want you to know that, because I told
you that's what I would do, let you know," or
is your position, well, when they get the
notices and the placards go up, that's the
notice?

CHAIRMAN MOORE: I would ask that we
wait until the Planning Board officially sends
us their vote that they're forwarding it to
us. And with our motion tonight, we could
then ask the Building Inspector to provide
that information after their next Thursday's
meeting, and those notifications would go out
before the end of July, or right at the end of
July with adequate notice with an expanded
mailing of the neighborhood.

I think the point you were making is
there was a nearby neighbor at the end of the
street that received no notices and found out
about the meeting indirectly, and, in that
case, we would cover that.

MR. CORWIN: Well, they made a big stink
that they wanted to know what was going on.

CHAIRMAN MOORE: Yes.

MR. CORWIN: And I want to hold the ZBA
to that, they know what's going on.

CHAIRMAN MOORE: Good.

MR. CORWIN: And sometimes you get
notices, but you got something else planned,
because the notice is two weeks down the road
and you'd rather know a month down the road.
That's what I meant.

CHAIRMAN MOORE: Okay.

MR. PROKOP: The Board is -- you know,
the statutes -- the Code states the minimum
notice that's required. The Board can expand
the notice that's required any time that it
wants to. So we don't have to belabor it. If
you think a more advanced notice or a
different type of notice is necessary, you
could just make that motion and then the Board
can consider it.

MR. CORWIN: I can -- possibly, I'm not
recalling what was said correctly at the last
Public Hearing, but, to me, there was going to
be some augmentation of the notice process, so
that's kind of what I'm after.

CHAIRMAN MOORE: Okay. I think that
will accomplish it. And that would be
satisfactory to you?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Great. So on Item #5,
if I can recap everything, we're making a
motion to provisionally accept the application
for an area variance, and that we will wait
for the official notification of the Planning
Board, and then notify the adjoining and
nearby neighbors with a radius that would
encompass the entire block of Fifth Avenue.
And that, of course, the placard on the
property and the public notice in the
newspaper would also be done at the earliest
convenience, probably at the beginning of
August, for our upcoming hearing on August 21st.

So I would make that motion, and ask for a second.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So that motion carries.

If I may, I will go back. I, unfortunately, skipped Item #4, which is, again, another motion to accept an application for a use variance, schedule a site visit, and schedule a Public Hearing for Margaret and Anthony McDonald, 629 Main Street, Suffolk County Tax Map 1001-2-6-50, located in the R-2 district.

The Applicants seek a building permit to construct a second residential unit in the R-2 District. Article IV, Section 150-8, One and Two-Family Residential District, states:

"In a Two-Family Residential District, no building or premises shall be used, and no building or part of a building shall be
erected or altered, which is arranged, intended, or designed to be used, in whole or in part, for any purpose except a two-family dwelling.

I will make that motion, and ask for a second.

MR. CORWIN: Question.

CHAIRMAN MOORE: Yes.

MR. CORWIN: Is this another one of these things that are detached?

CHAIRMAN MOORE: In this case, it is a fully detached. It's an existing --

MR. CORWIN: But the Building Inspector said -- told -- Mr. Prokop said you can't do that anymore.

MR. PROKOP: That's right.

MR. CORWIN: That's my understanding.

MS. WINGATE: That's why they're here.

MR. CORWIN: And now we're doing it again?

CHAIRMAN MOORE: No, no.

MS. WINGATE: That's why they're here. No. They have an existing building that has been there for a very long time, David. I don't know how long. They would like to --
CHAIRMAN MOORE: So what we are --

MS. WINGATE: They would like to continue its use, but the building is deteriorating. The only way that they could rebuild it is with a variance from the ZBA.

That's why we're here.

MR. CORWIN: All right.

CHAIRMAN MOORE: Okay. So, in other words, so I've made that motion to accept the application, and may I have a second?

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So that application is accepted.

So we're going to move on now to the Findings and Determination Documents. There are three. I don't know if everybody had a chance to review them.

The first is the application from James and Carol Kalin, and that is a Findings and Determination Decision Document approving a variance for an addition to an existing nonconforming dwelling. I'd just like --
MS. WINGATE: Excuse me. The ones I
distributed might, in fact, not have been the
right ones.

CHAIRMAN MOORE: Right. I would just
like to make note that in the document, as
currently conformed, identifies the District
as R-1; it should be R-2.

MS. WINGATE: Right.

CHAIRMAN MOORE: And this document does
include the stipulation that discharge of
water from the new construction would not be
permitted to leave the property. And other
than that, it follows exactly the voting and
the determination for issuance of that
variance.

So would the Board be prepared to
consider approving the document that follows?

MR. CORWIN: Yes.

CHAIRMAN MOORE: So I would make a
motion that we accept that Determination and
Decision Document for James and Carol Kalin.

May I have a second?

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.
MR. BENJAMIN: Aye.
CHAIRMAN MOORE: Aye.
MR. CORWIN: Before we go any further on these --
CHAIRMAN MOORE: Yes.
MR. CORWIN: -- can I ask a question?
CHAIRMAN MOORE: Sure.
MR. CORWIN: Is the building permit issued prior to these formal boiler plate motions, or does the Building Department wait until these formal motions are made?
MS. WINGATE: It depends. I -- if you voted to approve it, I generally issue a building permit before the formal motions are approved.
MR. CORWIN: All right. I don't want to visit that tonight --
MS. WINGATE: It usually --
MR. CORWIN: -- because I want to visit something else. But I think we need to visit that and have some formal way of doing that.
MS. WINGATE: Can I finish my sentence? I usually wait until the minutes are available. So I might not have a formal resolution, but at least I have the minutes,
so I know which direction I go.

MR. CORWIN: The problem is sometimes we get into arguments over these things, so I think we need some kind of formal procedure there.

MS. WINGATE: Okay.

CHAIRMAN MOORE: Yeah. I think the only issues that come up as to whether the Decision Document accurately represents what we discussed and what we approved. Sometimes when the approvals are very tight, there's some deliberation that occurs, and I think we're generally tuned into those. And my experience is that Ms. Wingate has held back on approving building permits for controversial approvals, but some of the easy to pass and unanimous decisions from the Board, the building permit is issued.

Item #6 is, again, approving the Findings, Determination and Decision Document for a variance for David Glaser, Second Street, Suffolk County Tax Map 1001-4-2-35.2.

MR. CORWIN: That's Item 7.

CHAIRMAN MOORE: I'm sorry. That's this -- I'm using the old draft.
MR. CORWIN: It's Item 7 on my agenda.

CHAIRMAN MOORE: Yes, it is. I didn't bring my numbers up to date. Sorry.

Item #7 for Glaser, and that is the construction of a new one-family dwelling.

Again, this was incorrectly noted to be in the R-1 District. It's the R-2 District. And the statement following that is that the premises is presently used as a single-family residence.

MS. WINGATE: Which is vacant.

CHAIRMAN MOORE: I would recommend that the proposed construction is to be used as a single-family residence. And in the voting, we did vote in B, the benefit sought by the Applicant could be achieved by some other method. But despite that consideration, we did pass the variance. And with --

MS. WINGATE: And in the last paragraph, do I have the wrong one, or does it talk about the CAC?

CHAIRMAN MOORE: You know --

MR. ABATELLI: CAC would be for the next one.

CHAIRMAN MOORE: I missed that. That is
not -- doesn't belong, so --

MS. WINGATE: Yeah, the whole entire
last paragraph.

CHAIRMAN MOORE: So we have to stop at
granting the variance and leave the rest,
except for the installation of gutters and
leads to retain the runoff on the property.
And I will reword that appropriately, taking
out the CAC, which came from another document,
apparently.

MS. WINGATE: Right.

CHAIRMAN MOORE: I missed that one
MS. WINGATE: That's okay.

CHAIRMAN MOORE: Would the Board entrust
me to make those corrections?

MR. CORWIN: Yes.

CHAIRMAN MOORE: So I would then offer
that document for approval and make that
motion. May I have a second?

MR. CORWIN: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So that document is approved, and I will
make those corrections.

And the last one is the application of Nancy Louise Pope, that is Item #8, I believe, of 8 Beach Road, Greenport, New York, Suffolk County Tax Map 1001-3-3-32, to construct an addition to the existing nonconforming building.

And that document is correct --

MS. WINGATE: Yes.

CHAIRMAN MOORE: -- as printed, as far as I can see. And with that in mind, I'll move that we approve that document. May I have a second?

MR. CORWIN: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

That document is approved.

Next is to accept, #9, the ZBA minutes from June 19, 2013. So moved. Second, please.

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.
MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye. You said "aye,"

Charlie?

MR. BENJAMIN: Yes, I did.

CHAIRMAN MOORE: Thank you.

And then motion is to approve the ZBA

minutes for May 14, 2013. So moved. Second, 

please.

MR. CORWIN: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

BENJAMIN: Aye.

CHAIRMAN MOORE: Any.

And that's approved. And then a motion

to schedule the next regular ZBA meeting for 

August 21st, 2013. With that in mind, we 

would be meeting for the area variance for

Mr. Olinkiewicz at 4:40. And before that, we

will be visiting the site for Margaret and 

Anthony McDonald on Main Street.

MR. CORWIN: But that's provisional.

CHAIRMAN MOORE: Provisionally at --

MR. ABATELLI: What was the time? We do

need a time.

CHAIRMAN MOORE: At 4:20. We would do
it at 4:20. I think that would be enough time.

MR. ABATELLI: That's for McDonald at 4:20.

CHAIRMAN MOORE: At 4:20. And if that does not come to be, then we would simply meet at 4:40 for Mr. Olinkiewicz on Fifth Avenue. Is that acceptable?

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: And with that in mind, I'd make the motion for the next meeting. And a second, please.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

CHAIRMAN MOORE: Aye. Charlie, yes?

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: And the final is I make a motion to adjourn. Second, please.

MR. CORWIN: I would like to discuss a few things --

CHAIRMAN MOORE: Yes. Oh, discussion, yes.

MR. CORWIN: -- before we do that.

The first thing is Mr. Costello
represented that that house on Broad Street
was a three-family house.

MS. WINGATE: It is. It has a CO to be
a three-family house.

MR. PROKOP: But when did the use start?

MS. WINGATE: When did it start?

MR. PROKOP: I mean the CO, yes.

MS. WINGATE: Oh, I don't --

MR. CORWIN: Well, let me finish what I
have to say, please.

MS. WINGATE: Okay.

MR. CORWIN: That's been used for many
years as a four-family house. In other words,
I was a young -- when I was a child, I
remember that as maybe a three-family house.
I remember two families being in there. May
Watson used it as a four-family house. And I
want to know what it is officially, and I
want -- when the next person moves in there,
buys it, I want to know it's going to be a
three-family house, not turned again into a
four-family house, or, with the addition of a
studio, a five-family house.

MS. WINGATE: I have been in the house,
not the whole house. I've been in May's
apartment, which I've been in the front
apartment, and I've never been upstairs. So I
can ask to be through the whole house. I
don't know anymore than that it has a
Certificate of Occupancy as a three-family
house.

MR. CORWIN: And I know for a fact that
it was used as a four-family house.

CHAIRMAN MOORE: Would we know the basis
for that status, preexisting nonconforming
use, or what would be the --

MS. WINGATE: Oh, it goes way back.

MR. ABATELLI: Yeah. I'm not sure, but
it goes way back. It's either right at the
beginning, like in the early '70s, when the
Code was --

MS. WINGATE: I can certainly ask for a
tour of the house and do a report.

MR. CORWIN: I have no problem with
Costello, because I know he's straightforward
and he's going to do was he says he's going to
do. But I know when they sell it in 20 years,
somebody's going to say, "You know, there's a
lot of room up here in the attic," blah, blah,
MS. WINGATE: Oh, yeah. It's a big house.

CHAIRMAN MOORE: So what's the trigger? What would be the triggers for loss of that current status? Not simply sale, but --

MR. PROKOP: We get a Code Enforcement Officer that goes and looks at it and issues a violation.

CHAIRMAN MOORE: Okay. But if it had a preexisting nonconforming use?

MR. PROKOP: Well, nobody's determined that.

CHAIRMAN MOORE: That's what I'm wondering, if it, in fact, was the case.

MR. PROKOP: If that was the case, then they'd have to discontinue the use for either three or six months, I forget.

CHAIRMAN MOORE: Based on what? I mean --

MR. PROKOP: If they discontinued the use for a three --

CHAIRMAN MOORE: Oh, if they discontinue the use.

MR. PROKOP: Yes.

CHAIRMAN MOORE: Yes. Sorry.
MS. WINGATE: And I think our Code says
a year.

CHAIRMAN MOORE: Or substantial
reconstruction, and all the other things.

MS. WINGATE: Or substantial
reconstruction would certainly put it in the
nonconforming use category.

CHAIRMAN MOORE: Yes.

MR. PROKOP: But these are the kinds of
things that -- we run into this all the time,
that somebody's making a statement that, you
know, it started way back, or whatever Dave
said. I mean, that's not the determination a
of preexisting nonconforming use. We need
legal proof in the file, which is generally
considered the affidavits from two
disinterested people that are at least as old
as -- that were adults in 1971 that say that
they remember specifically that the use was a
four-family house.

CHAIRMAN MOORE: And the challenge for
that could be a complaint?

MR. ABATELLI: Or survey.

MR. PROKOP: Or a survey, a survey
complaint.
CHAIRMAN MOORE: Could that be precipitated by a complaint from an affected neighbor or --

MR. PROKOP: Sure.

CHAIRMAN MOORE: I wonder what triggers that evaluation.

MR. ABATELLI: Well, the building, and I really haven't looked at the CO, but I would -- the three family sounds familiar. The building has been transferred, so I think that's what -- the CO in the file I think has been a three-family for a pretty long time.

Dave very well might be correct, that when May was there, she used it as a four-family.

MR. CORWIN: But in point of fact, it was a four-family house.

MS. WINGATE: May used it recently as a four-family?

MR. CORWIN: May Watson certainly did, yes.

MS. WINGATE: Recently, just --

MR. CORWIN: Until she sold the thing. And now John's changing who's in there.

CHAIRMAN MOORE: Well, if somebody had the impulse to do the right thing, what would
be the process? Would it be an application
for a variance or --

      MR. PROKOP: Yeah. No.
CHAIRMAN MOORE: -- supplying affidavits.

      MR. PROKOP: Application for a C of O.
CHAIRMAN MOORE: A C of O.
      MR. PROKOP: For whatever the use is
right now, and whatever the use actually is,
what it really is, an application for a
Certificate of Existing Use for that use.

      CHAIRMAN MOORE: Because the only thing
I think could precipitate it is a new owner
who might feel in jeopardy if that was not
somehow sanctified. So, in fact, they could
petition through affidavits or a variance
request to certify its current status.

      MR. PROKOP: Yes.

      CHAIRMAN MOORE: Okay.

      MR. ABATELLI: I don't know if I'm -- I
know we're all tired, but I don't know if I'm
missing something.

      CHAIRMAN MOORE: Yes.

      MR. ABATELLI: But if the CO says a
three-family, and the owner 20 minutes ago
said it's a three-family, I mean, maybe it's
been used as a four-family, but I think when
Eileen -- if Eileen goes in the house and it's
clearly the four-family, I think we'd be on
pretty solid ground to say it should be a
three-family.

    MR. CORWIN: All right. That's what I
want to hear you all say, that's it's a
three-family, period.

    MR. ABATELLI: I would think so. I
mean, I'm not --

    MS. WINGATE: I don't know. Both May
and John are good at that kind of stuff.

    MR. CORWIN: Well, yeah, there you go.

    MS. WINGATE: It's a big enough house
for it to be a six-family, you know.

    CHAIRMAN MOORE: Now, did you have a
second --

    MR. CORWIN: No, it's not.

    CHAIRMAN MOORE: To move things along,
did you have another question, being question
number two.

    MR. CORWIN: I had a second thing, and
it's going to take some time.

    CHAIRMAN MOORE: Yes.
MS. WINGATE: It's a very big house,
I'll leave it at that.
I have a question for you, though, Joe.
CHAIRMAN MOORE: Mr. Corwin, if he could
finish his question.
MS. WINGATE: Yes.
CHAIRMAN MOORE: And then we could close
the meeting.
MS. WINGATE: Yes.
CHAIRMAN MOORE: Sorry.
MR. CORWIN: This idea of these studios,
and I know three of them are right in that
neighborhood around North Street and First
Street, and it's beyond me where anybody can
find in the Building Code that you can build a
two-story structure as a studio.
The Zoning Code says that you can have a
studio, such office or studio is incidental to
the residential use of the premises, and is
carried on by a resident thereof with not more
than two residences. Such offices -- office
or studio shall occupy not more than 30% of
the area on the ground floor of the main
building. So it's very clear what a studio
is.
This was designed, because back in the day when they passed this, there were a lot of doctors and dentists that had their offices in their homes. Then somehow it got to be -- down to the end of the Code, it says something about you can have an accessory building. There's no real definition of accessory building. To me, an accessory building is it could be a garage, maybe it could be a little workshop, like that gentleman, McDonald, did on Main Street. It could be you go up to Peconic and get one of those little buildings to store your tools in. But no way is an accessory building a two-story studio garage or a two-story studio. I don't think that's right.

If the Board of Trustees wants to make the definition of an accessory building a two-story studio with a garage, fine, but I don't think this is right the way these things have been given out. Every time somebody comes in and says, "I'm an artist," give them whatever they want, you know, I'm just against that.

CHAIRMAN MOORE: I can make a comment on
that. As preparation for this meeting, I reviewed some case material that were both at some times before the Planning Board or the Zoning Board, and when it came to the Zoning Board, even for a construction, a new construction of a studio, the issues had to do with area variances such as setbacks or building height, and at no time was the studio aspect of the building discussed. And that's on several cases of First Street.

And I can also say that I think the Village Board is aware of some of these inconsistencies because there exists many of these in use, whether old or new buildings.

And Code Committee has been charged with looking at accessory buildings, I think principally because of residency issues and some problems, but I believe also accessory uses and perhaps the changing desires of property owners. So that I believe this is coming up for discussion and it's uncertain where you --

MR. PROKOP: Well, the idea is --

MR. CORWIN: Well, the way the Code is --
MR. PROKOP: The idea is that it's been
the interpretation of the Building Inspector
for a long time that somebody that owns --
owns and or -- I'm sorry -- somebody that
resides at the property can use a portion of
the garage. And I don't mean build another
building that's a studio, I don't mean that.
I mean use a portion of the garage for a
studio, woodworking, things like that. You
know, that's interpreted and I'm okay with
that.

The problem that I have, and this is why
I tortured you guys with the -- you people.
I'm sorry, with the discussion before, we
don't get full information from the Building
Department on these applications. We get bits
and pieces, and it's really hard to figure out
what's going on.

So what we need -- you know, that's the
first thing. But the second thing is the --
I'm not aware of -- I'm not aware of -- I'm
sure that it's happened, and somebody's going
to point this out to me, but I'm not aware of
ever being involved in an application where
somebody actually built a building that was a
1 dedicated studio. I hope that this building
2 doesn't --
3 MS. WINGATE: That place for Tom.
4 MR. PROKOP: -- end up in it. And,
5 see -- and, you know -- I knew that something
6 was going to come up. But the -- and that was
7 not granted.
8 MS. WINGATE: Raphael Ferrer, they were
9 both before ZBA.
10 MR. PROKOP: Ferrer was a house, a
11 portion of a house.
12 MS. WINGATE: No.
13 MR. CORWIN: No.
14 MS. WINGATE: Before that.
15 CHAIRMAN MOORE: In a separate building.
16 MS. WINGATE: Ferrer was a separate
17 building for a studio.
18 MR. PROKOP: Well, it shows what I know.
19 MR. ABATELLI: Galleries, that's what it
20 is.
21 MR. PROKOP: But anyway, in this
22 particular application before us tonight, the
23 language of the variance has to specify that
24 that woman is going -- the user of that studio
25 resides at the property.
CHAIRMAN MOORE: Yes.

MR. PROKOP: There's a minimum requirement, because the last thing we want to do now is to have people just converting buildings to so-called studios and renting them out.

MR. CORWIN: And that's exactly what's going to happen.

MR. PROKOP: Yes. We're not going to allow that.

MR. CORWIN: And I have to contend -- if the Village Board, when they passed this Code, put studios in one place and accessory buildings in another place, they were not talking about studios when they said accessory buildings.

MR. PROKOP: But there's threshold questions. When these people come into the Building Department, there's threshold questions that have to be asked by the Building Department. They can't -- it can't just come to us and then -- you know, if we ask the question, fine. If we don't ask the question --

MS. WINGATE: This is a good time to --
CHAIRMAN MOORE: Okay. May I offer a motion to adjourn and ask for a second?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

So we're adjourned.

(Whereupon, the meeting was adjourned at 7:15 p.m.)
CERTIFICATION

STATE OF NEW YORK )

) SS:

COUNTY OF SUFFOLK )

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

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on July 17, 2013.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of June, 2013.

Lucia Braaten
A
abandoned 44:6
abandoning 41:17
Abatelli 1:19 31:3
31:6,20 46:16
105:23 108:23
109:3 111:13
113:23 114:7
115:20,24 116:10
121:19
ability 25:11 73:14
able 4:4 5:10 87:25
93:4,6
absolutely 11:13
40:9,11
accept 84:16 87:2,3
89:8,21 98:16
99:13 101:9
102:20 107:20
acceptable 45:17
109:8
accepted 101:16
accepting 89:20,23
accessory 9:10
35:16,17 40:11
65:6 69:8 118:6,7
118:8,14,18
119:16,18 122:13
122:15
accommodate 7:13
26:8,9,10 72:21
accommodated
43:16 72:3
accommodating
14:20
accommodations
16:19
accomplish 98:11
accrue 76:8
accurately 104:9
achieved 6:8 48:11
48:23 67:10
105:16
acronym 71:2
act 71:1,7 88:1 95:8
action 47:2,3 66:10
78:14 93:22
124:14
activities 40:24
51:12 71:10 77:24
activity 27:20 39:3
61:3 65:6 69:6
actual 57:21
add 19:12 26:19
32:9 41:2
addition 2:25 3:2
4:24 5:7 6:12 9:4
32:19 36:13 40:5
46:7 54:22 57:7
61:6 63:2 65:8
101:24 107:6
110:22
additional 4:2,18
84:5 95:25
additionally 92:3
additions 26:7
address 9:1 10:14
10:19 18:23 22:22
22:24 23:7
adequate 15:12
57:22 97:2
adjacent 5:4 9:22
13:13,21
adjoining 10:10,14
10:20 11:9,22
98:19
adjourn 109:19
123:2
adjourned 123:8,9
adjudicating 92:11
Adjutant 28:16
administrative
84:4
administratively
84:17 87:8 89:8
Administrator 1:19
admit 35:13
adults 113:18
advance 92:14
advanced 98:1
adverse 6:24 50:1
68:5
advice 3:16
advise 27:4
affair 19:19
affidavits 113:16
115:5,16
affiliation 18:23
23:7 24:4
afternoon 18:25
59:12
age 16:1
Agency 47:1 66:9
78:12
agenda 1:4 2:13,19
2:20 33:22 105:1
agent 23:9
ago 5:2 25:23 28:13
37:18 38:6 115:25
Aha 72:12
ahead 4:7 30:3
46:19 77:18 86:25
89:3
air 30:13
alleged 7:7 50:13
68:15 80:12 81:11
Alleluia 28:13
allow 5:8 11:15
12:5 122:10
allowance 73:11,17
75:4
allowed 75:5
allowing 42:14
allows 7:14
alter 81:1
alteration 58:23
altered 100:1
American 37:17
amount 53:25
59:25 60:20 72:2
77:13
ample 40:6
answer 3:15 6:1
16:16 53:7 64:15
79:12,23 80:24
answers 48:13
Anthony 99:16
108:20
anticipate 63:6
anybody 28:3 30:3
117:14
anymore 37:23
100:15 111:4
anyway 24:7
121:21
apartment 29:18
30:21 83:25 111:1
111:2
apartments 15:14
24:20 26:11
apologies 66:5
apologize 3:13
apparently 22:22
36:3 106:10
appealing 15:9
Appeals 1:2 2:6
50:16 51:9 52:1
65:11 68:18 69:16
90:3
appearance 36:14
60:12,15
APPEARANCES 1:12
appeared 55:25
appears 35:20
Applicant 2:24
4:14,22 6:8,9 8:2
9:3 12:22 21:17
37:13 45:5,17
48:11,12,22,24
67:10,11 75:15
78:25 79:19 84:22
85:4 105:16
Applicants 99:19
application 4:6,7
5:21 8:3 12:23
20:18 23:21 34:2
43:20 45:9 51:9
51:10 52:1 53:16
62:23 63:13,15
64:9,25 69:5
70:18 71:25 75:7
84:16 86:7 87:8
88:6,12,21 91:17
91:20 92:1 93:7
93:23 98:16 99:13
101:10,16,21
107:2 115:1,6,10
120:24 121:22
applications 62:5
120:16
apply 80:14
applying 76:24
82:17
appreciated 14:2
approached 13:17
approaching 16:11
appropriate 18:24
44:18 92:5
appropriately 9:20
106:8
approval 14:22
41:18 64:22,23
84:23 87:9 88:6
106:18
approvals 84:5
104:11,16
approve 33:25 51:9
69:4 82:5 90:16
91:1,7,7,10,11
103:13 107:12
108:6
approved 14:23
46:11 53:9 70:6
83:24 90:22
103:15 104:10
106:25 107:19
108:14
approves 91:24
approving 90:21,23
101:23 102:17
104:15,19
April 28:15,15
Architect 7:17
30:23
architecturally
44:11
Arden 2:22 4:22
6:4 34:3,9 41:22
area 3:4 4:8 5:10
6:10 9:14 13:9
25:21,24 31:12,16
35:21 48:2,13,24
<table>
<thead>
<tr>
<th>Word</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merrick</td>
<td>10:19</td>
</tr>
<tr>
<td>method</td>
<td>6:8</td>
</tr>
<tr>
<td>mind</td>
<td>40:13</td>
</tr>
<tr>
<td>minimum</td>
<td>9:16</td>
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<tr>
<td>minister</td>
<td>27:19</td>
</tr>
<tr>
<td>minute</td>
<td>10:72</td>
</tr>
<tr>
<td>minutes</td>
<td>64:13</td>
</tr>
<tr>
<td>mirror</td>
<td>45:23</td>
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<td>missed</td>
<td>105:25</td>
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<tr>
<td>Mitchell</td>
<td>19:4</td>
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<tr>
<td>mix</td>
<td>26:3</td>
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<td>mixed</td>
<td>25:21</td>
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<td>modest</td>
<td>29:18</td>
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<td>modification</td>
<td>57:10</td>
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<td>money</td>
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<td>35:2</td>
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<td>17:</td>
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</tbody>
</table>

Flynn Stenography & Transcription Service
(631) 722-1107
44:3  
restriction 43:12  
82:17  
restrictions 43:1  
restrictive 71:20  
result 40:17 69:10  
73:12  
retail 39:3  
retain 106:7  
return 75:10,12,14  
79:1,2,20,21  
returned 63:5  
revert 38:18 41:20  
43:2 73:23 83:7  
review 3:12,17 4:3  
14:21 24:1 33:22  
34:13 63:24 65:10  
78:14 101:20  
reviewed 63:14  
119:2  
reviewing 62:4  
revisit 45:18  
revolving 41:25  
reward 64:25 106:8  
re-notification 4:11  
re-review 69:15  
Richard 9:25 21:14  
23:8 70:18  
right 9:24 18:19  
19:13 24:13,20  
30:3 31:11 44:16  
44:24 47:22 51:5  
55:25 57:25 58:18  
58:20 60:8 64:11  
70:16 71:8 81:25  
83:5 87:18 88:17  
91:4 93:10 94:5  
96:5 97:1 100:16  
101:7 102:3,4,8  
103:16 106:11  
111:14 114:25  
115:9 116:7  
117:12 118:16,20  
RLUIPA 71:4,5  
76:12  
road 15:3,4 97:17  
97:18 107:4  
Roe 11:16 12:6,7  
13:1 14:5 15:13  
17:15,20,20 18:19  
70:9,12  
roll 83:15  
Ronald 10:13 11:21  
12:20 22:20  
roof 12:4,15 13:7  
15:6,7 60:13  
room 40:6 111:24  
Rose 10:13 11:21  
12:20  
rule 71:8,11  
run 16:6 113:10  
running 16:3 27:24  
runoff 106:7  
runs 27:1  
R-1 21:16,19 31:12  
32:21 52:2 72:6  
72:18 83:8 102:7  
105:7  
R-2 99:17,20 102:7  
105:7  
Sacred 29:11  
sale 13:22 112:5  
sales 19:23  
sanctified 115:15  
satisfactory 98:12  
satisfy 40:14  
save 87:14  
saw 9:24 90:14  
96:4  
saying 19:21 28:5  
31:22 42:12 59:10  
77:1 81:15 91:14  
says 27:13,15 54:21  
56:23 91:12,13,16  
91:21 111:21  
113:1 115:24  
117:17 118:5,22  
scale 60:10  
schedule 84:20,20  
86:14,18 89:10,11  
92:15 93:14 99:14  
99:15 108:15  
scheduled 29:6  
66:1  
schematics 64:8  
Scott 2:22 4:22,23  
34:3,9 36:1 42:5,7  
42:13,17 44:20  
seafood 37:4  
seafont 28:25  
second 3:10 4:3  
5:18 8:10,11 9:3,6  
9:12 11:21 20:24  
20:25 21:18 30:11  
30:16 33:8,9  
43:20 47:4,5  
52:20,22 53:16  
54:15,25 56:1  
57:7,11 61:6  
66:1,12 69:19,20  
69:21 78:15,16  
83:10,12,13 99:4  
99:5,20 100:6  
101:10,11 102:22  
102:23 104:21  
106:19,20 107:13  
107:14,21,23  
108:7,9 109:12,13  
109:19 116:18,23  
120:20 123:2,3  
seconded 33:11  
secondly 48:10  
73:20 80:11  
section 3:4,10 9:8  
9:14 21:19 58:21  
85:10,14,20,24  
86:3 99:21  
see 15:3,21 17:8  
19:15,17 20:8  
22:5 40:16 43:11  
43:11 107:11  
121:5  
seeing 10:1 25:6  
seek 99:19  
seeking 66:11  
84:23  
seeks 2:24 72:16  
85:4  
seen 15:2 59:5  
self-created 7:8  
50:14 68:16 81:12  
81:16  
sell 17:10 111:22  
send 88:19 96:1  
sends 95:6 96:20  
Senior 26:18,22  
sense 75:3 93:24  
sent 4:4 13:19  
sentence 103:22  
separate 25:1 26:9  
70:21 72:7 73:25  
94:14 121:15,16  
separated 73:21  
September 24:14  
SEQRA 47:1 66:9  
78:13  
service 27:14,15  
serving 78:2  
session 2:5,16 3:14  
38:5 87:10 88:11  
92:8,16,24 93:1  
95:10  
set 70:21 71:8  
74:20 124:18  
setback 3:6 5:17  
6:19 9:14 40:17  
40:19 54:9 56:8  
58:9 85:17,22  
86:4  
setbacks 119:7  
sets 22:7  
seven 2:7  
Sexton 24:15,24  
72:23,24,25 73:1  
73:23  
Sextons 24:10  
Shapiro 22:23  
Shook 72:8  
shop 14:14,15  
show 19:14,14  
showed 12:7 13:11  
13:12  
shower 65:18 69:8  
showers 16:21  
shows 121:18  
side 5:17 6:19,19