Regular Meeting March 16, 2016

VILLAGE OF GREENPORT

COUNTY OF SUFFOLK STATE OF NEW YORK

----------------------------------------X

ZONING BOARD OF APPEALS

REGULAR SESSION

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Third Street Firehouse
Greenport, New York

Before:

CHAIRMAN SALADINO

MEMBER CORWIN

MEMBER GORDON

MEMBER NEFF

Building Inspector
Eileen Wingate

Town Attorney
Joseph W. Prokop
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Motion to accept ZBA Minutes of January 20, 2016 and February 17, 2016 meetings

Motion to schedule next ZBA for April 20, 2016

Motion to adjourn
CHAIRMAN SALADINO: Folks, its 5:05. This is the March Zoning Board meeting. Present is Ellen Neff, Dinni Gordon, David Corwin and myself, John Saladino.

The first item on the agenda is a public hearing on the application for Carlos Saavedra and Nicole Eckstrom, 502 Front Street. Suffolk County Tax Map # 1001-4-4-28.1.

The applicants request a variance of the maximum fence height. The existing 6ft fence is located within the required front yard setback along north property line, requiring a variance of 2' of fence height within the 30' required front yard setback.

Section 150-13 B (2) of the Village of Greenport Code requires that on a corner lot, front yards are required on both
street frontages. One yard other than the front yard shall be deemed to be a rear yard and the other or others to be side yards.

Section 150-13 F (1) of the Village of Greenport Code requires that no fence or wall in required front yard shall have a height greater than 4 ft.

We have -- the Public Notice was posted. We have proof of the Public Notice. We have six mailings. 503 Front Street Corporation, 503 Front Street.

Maryann Yaeger, 430 Front Street.

Saint Agnes Church, care of Flannigan, 50 North Park Avenue,
P.O. Box 9023, Rockville Centre, New York. Kelly Ludson, 512 Front Street. Carol Liben, Post Office Box F, Greenport, New York

and Stewart Kogelschatt, 2900 North Road, Greenport.

Is the applicant here?
MEMBER CORWIN: Take the podium if you have anything to say.

CHAIRMAN SALADINO: If you have something to say?

MR. SAAVEDRA: Thank you. Yes.

MEMBER CORWIN: Give your name and spell it for the recording secretary, please.

MR. SAAVEDRA: My name is Carlos Saavedra. Last name is S-A-A-V-E-D-R-A.

Yes, we are applying for a variance to have an existing fence from four to six feet tall. We have a special situation. This lot used to be part of just one ownership. And we recently purchased the property in November.

Hence, we just had it -- for the privacy for both of us a fence would make sense. Our
situation is also is special
because we are on the corner and
we have a fairly full green fence
that -- we actually -- it makes
the fence almost non-visible
except for our neighbors to it.
And we believe they are -- they
-- the height of the fence we are
requesting is minimum so we can
have privacy with the both of us.
And we believe in fact, that
the actual fence is not visible
from the outside. And that it
won't be disrupting the character
of the street. That is basically
it.
I can answer any questions.
This is the first time I am here.
So I don't know how this works.
CHAIRMAN SALADINO:
Thank you.
Is there anyone from the
public? Is there anyone from the
public that would like to speak?
MR. SWISKEY: Oh, thank you, neighbor. William Swiskey. 184 Fifth Street.

You know, I rode by this fence. You know, it is not that bad. I -- actually how much of it violates the height restriction? I don't think it was measured, was it?

CHAIRMAN SALADINO: 32 feet.

MR. SWISKEY: 32 feet. It was measured. All right. Anyway, you know, its -- the Village Code has got this quirk in it about two front yards on corner lots. And for years it has been ignored and it probably should be removed from the code, designate what is a front yard, what is a side yard.

But anyway, I can't see any harm in this fence at all. I don't know. To make the man to
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take it down it would be just --
I don't know. It would make no
sense.

What this Board should do is
recommend to the Village Board
that it review this code
provision about the two front
yards and maybe this kind of
thing winding up here all the
time will stop. Thank you.

CHAIRMAN SALADINO: You're
next.

MR. KEEN (Phonetic): Bob
Keen. 242 Fifth Avenue. I have
no objection to the fence. You
don't even notice it there. The
code in the village doesn't even
have anything about height
requirements as far as your
hedge. They have a 20 or 30 foot
hedge but then they tell you you
can't have a six foot fence. It
really doesn't matter. It really
is kind of ridiculous.
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CHAIRMAN SALADINO: It was -- it was -- just as a quick explanation, it was legislated -- not even legislated. It was determined years ago that someone decided that a hedge wasn't a fence. And that has been passed down to us.

MEMBER GORDON: Can --

CHAIRMAN SALADINO: Sure.

MEMBER GORDON: I think the idea was that you could see through a hedge but you can't see through a fence, but of course, with a big mature hedge, you can't see through that either. So you're right. A little arbitrary.

CHAIRMAN SALADINO: Chatty.

MS. ALLEN: Chatty Allen, 311 Fifth Avenue. I am also a school bus driver. So I use that
corner quite often. Okay. But whether I'm in my car or up high
in the bus where the fence is located -- it doesn't impeded
anything or anyone.

And I also think the owner should be commended because on
Front Street that leads into Fifth Avenue, when they purchased
this property I said, wow. They literally backed in the corner,
the round. They took the hedges and backed them in. So your site
line is even better than it was prior.

And I didn't even realize when I read about this fence that
that is the one you're talking about because driving in the car
you don't even notice it. And like they said, they separated
those properties. It was always one great big property.

To me, I say let them. And
I also agree with this two front yard business. It depends on where you are and where the fence is actually -- where that -- I thought that was their backyard, to be honest with you. Because it is on Fifth Avenue and it is in the back in between the two properties. I'm all for it. I am just saying let them have this. Thank you.

CHAIRMAN SALADINO:

Anyone else? Stewart.

MR. KOGELSCHATT: Stewart Kogelschatt, K-O-G-E-L-S-C-H-A-T-T, 219 Fifth Avenue. This adjoins my property. And I think the fence is fine. There is no site line or any possibility that it could bother anybody. Thank you.

CHAIRMAN SALADINO: Anyone else from the public?

I will entertain a motion to
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close the public hearing.

MEMBER CORWIN:  So moved.

CHAIRMAN SALADINO:  All in favor.

MEMBER GORDON:  Aye.

MEMBER NEFF:  Aye.

MEMBER CORWIN:  Are you going to get a second?

CHAIRMAN SALADINO:  Oh.

MEMBER GORDON:  Sorry.

CHAIRMAN SALADINO:  Do we have a second?

MEMBER GORDON:  Yes. Second.

CHAIRMAN SALADINO:  All in favor.

MEMBER CORWIN:  Aye.

MEMBER GORDON:  Aye.

MEMBER NEFF: Aye.

CHAIRMAN SALADINO:  Item number two -- item one is a discussion and possible action on the area variance for Robert Moore, 139 Fifth Street. Suffolk County Tax Map 1001-7-4-9.
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Applicants request the height variance for a six foot high fence in the front yard. The property is located in the R-2 district and not located within the Historic District.

I am going to look for the application. If -- we had the public hearing. The public hearing was closed and the discussion and possible action is for tonight, but I believe there is another variance requested with this.

Do we have the --

MEMBER NEFF: Do you want to see the application?

CHAIRMAN SALADINO: I think I have it.

MEMBER NEFF: Because I have it.

CHAIRMAN SALADINO: I have it. I have it.

MEMBER CORWIN: There
is a variance for yard coverage, 
a variance for the deck and a 
variance for the fence, right?

MEMBER NEFF:  Yep.

CHAIRMAN SALADINO:  Right.

Is there any discussion on this 
application?

MR. PROKOP:  Are these the 
same variances that were 
requested at the hearing?

MEMBER NEFF:  Yes.

CHAIRMAN SALADINO:  Yes.

MR. PROKOP:  Or are there 
other variances?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  No.

As far as the lot coverage, is 
there -- does anybody have a 
comment about the lot coverage?

The deck, we should mention is as 
built. The fence is as built. 
The lot coverage exceeds --

MEMBER NEFF:  I think the 
lot coverage -- according to my
notes if you -- 36 percent,
whereas the code requires 30
percent.

CHAIRMAN SALADINO: It
exceeds the -- the --

MEMBER NEFF: Yes. Yes, that
is the --

MEMBER CORWIN: 35.2 I have.

MEMBER NEFF: Okay. I stand
corrected.

CHAIRMAN SALADINO: What is
the pleasure of the board?

MEMBER CORWIN: Well, I'll
make a motion. I move that we
declare this application a type 2
for the State Environmental
Quality U Act. That it is going
to have no impact on the
environment.

CHAIRMAN SALADINO: Second?

MEMBER GORDON: Second.

CHAIRMAN SALADINO: All in
favor?

MEMBER CORWIN: Aye.
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MEMBER GORDON:  Aye.

MEMBER NEFF:  Aye.

CHAIRMAN SALADINO: I'm -- I don't seem to have a problem with the deck. I kind of think the deck -- the property before the deck was built was over -- was over the lot coverage size. I'm having trouble with the fence. I have said this before.

This board made an interpretation as far as fences and front yards. I believe -- some of my colleagues don't, but I believe an interpretation almost carries the weight of precedent. I think -- I think to ignore the interpretation, you know, undercuts the legitimacy of it. I think as far the height of the fence, that's personal preference. You know there is preference, personal preference as opposed to land use.
I understand there is a privacy issue because of the park across the road. I have a problem validating something that was illegal to begin with.

MEMBER CORWIN: All right. Can I make a motion?

MEMBER GORDON: May I say something?

CHAIRMAN SALADINO: Of course.

MEMBER GORDON: I think there is a significant difference between this fence and the previous fence we discussed because if the purpose of this rule, which we have agreed we're a little ambivalent about but which exists, is to protect the public because there are possible site line problems with a corner lot. Then I think this situation does present a problem in a way that Mr. Saavedra's fence does
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not.

I live nearby. I have been by two or three times to look carefully at this. If you are -- I am planning to vote no. I will say it. If you are driving down Fifth Street and you turn right onto Johnson Place at the corner if you are going fairly -- if you are going probably faster than you should but not all that fast and somebody is walking -- maybe a small person is walking east while you are going west, at that corner where it is a high fence, is part of the side -- the front yard, the legal front yard, the person on the -- it seems to me you cannot see -- the driver going west cannot see the person walking against the traffic coming east. This, to me, is adequate reason for suggesting the fence should not be more than
four feet high. And that is presumably the reason, that is the kind of situation which justifies the reason for having two front yards in a corner lot. That is explaining my vote.

MEMBER CORWIN: Let me make a comment on that. Okay. There is a separate section in the code that addresses the site distance on corner lots. It allows you to have maybe 30 inches. I don't remember. Don't hold me to that. 30 feet each way on a corner lot, specifically addresses the site line question for automobiles.

Then the section we're taking about, in my opinion, was put in there to keep from making Greenport look like a gated community where every house puts up as big a fence as they can. That is kind of my objection to all these fences I am seeing all
around Greenport where there is a 6' fence right up to the corner. And it make things look like a gated community.

And the last one we were just talking about, the public hearing, where you got an eight or ten foot hedge really adds to that. Right now it is kind of hiding an old New York State --

Department of Transportation yard and a barn that was there. But at sometime that is going to be taken -- probably for a housing unit. Then what's going to happen to the hedge there?

So I want emphasize there is two things here. One is there is a section in the code that addresses that site distance problem. In my opinion, this addresses the problem of the gated community.

MEMBER NEFF: May I?
CHAIRMAN SALADINO: Ellen.

MEMBER NEFF: I have a couple of points of view about this. The specific page of the code that discusses fences and front yards are defined front yards and corners. All of that. I did read it but I don't have it in front of me. I think that what we -- what we have in the case of a village like Greenport that was built -- most of it -- way before there was a code, which I believe dates from around 1960. Is that roughly --

MS. WINGATE: '71.

MEMBER NEFF: '71. Okay.

So the built environment is where we -- we have to start with that. We don't start with a code. We start with the built environment. And the people who own their property within that built
environment come to us to try to arbitrate what their desires -- to do what they want to do to their property and we introduce the factor -- and the Building Department certainly does -- the factor of public safety and all the other things of why we have codes in the first place.

The part of this property which most brings into question the corner, Fifth Street turning into Johnson Place, the house was there. Okay. No one is talking about moving the house. And yet the house is much more a -- in its closeness nine feet. It is certainly not within 30 feet. There is -- this exists. We also have photographs showing that this fence exists back to 1978.

CHAIRMAN SALADINO: In a different configuration.

MEMBER NEFF: Not
really. If we look at them --
certainly here is 2001, 2004,
1978. Anyway we have a fence.
We also have no sidewalk. In --
you know, we have no sidewalk.
We have room for persons walking
to walk anywhere they want in the
park and most people who walk
down the street -- they don't
have a sidewalk right -- walk to
the right. The direction you're
going which doesn't put you near
a car turning -- I think you said
west. I -- I find this
discussion errs on the side of
talking about the code rather
than looking at the situation as
it exists and has existed for a
long time. That's my point of
view.

MEMBER GORDON: Can I just
respond? I think -- I think the
-- I think at least I -- and many
people were taught as children to
they are requesting I don't see a
negative impact on the health and
safety or the environment about
this particular fence in this
particular place.

And this is not a general
comment about a 6' fence on all
corner -- you know like and as
far as the gated community I
think that for the most part I
find very little that resembles a
gated community about any of the
built environment of this
village.

CHAIRMAN SALADINO: Well,
that -- Ellen, that is --

MEMBER NEFF: That is my
opinion.

CHAIRMAN SALADINO: That is
certainly your right and you can
express that opinion with your
vote.

MR. MOORE: Is this closed
or is that -- that --
CHAIRMAN SALADINO: We are going to let you -- of course we are going to let you speak. The public hearing is closed. But we are just having a discussion here. If you want to come and -- and speak now I mean, that's fine.

MR. MOORE: Robert Moore, 139 Fifth Street, Greenport, New York. My property is the one that is in question. I've talked to most of you at the last meeting. There is a new member here now.

We have lived in this property for 44 years. We bought it in 1974. There was a 6' fence there when we bought it. We have replaced the fence two or three times over a 42 year period.

In the course of the time that we have lived there I can say we have probably made
complaints to the police department maybe four or five times in 42 years. And one of the things that makes that possible is that six foot fence. We would be on the phone all the time calling the police to come down because this is going on or that's going on. It just gives us a bit of a buffer to help us with our life style.

I can remember -- I don't know if I should say this but I am going to say it anyway. At the last meeting a certain member of this board stated that if he lived on that piece of property he would want a ten or 12' fence there. Okay. So I am not asking for a ten or 12 fence. All I am asking for is what has been around that property for 44 years, that I know of. And that's all I'm asking for. I
don't know what else -- what else to say other than -- I mean I want to try to work with the board. If you feel like maybe it juts out to far maybe I can move it in. I don't know but I need that 6' fence.

And the configuration -- the last time I put the fence there the previous fences were more rounded. This one is more straight because it was just easier to put it up. As far as the corner point where it is the furthest out is within a foot of where it was before. So really don't I know what else I can do. Thank you.

CHAIRMAN SALADINO: Thank you. I can remember the previous fence. The site line actually was better because it was rounded.

MR. MOORE: Yes.
CHAIRMAN SALADINO: It actually -- I was the one that said I would want a 12' fence if I lived next to the park. I freely admit that. But the problem is I would be -- I would be in your seat now talking to the ZBA. You know we are kind of bound by land use and -- and the code.

So the ZBA made this interpretation and -- and in my mind it does set a precedent. Some of my colleagues disagree. And because of that I think it -- it becomes binding in the village.

So now instead of the ZBA having 34 applications in front of it for corner fences or -- I am not sure of the exact number, 30 or 35 applications in front of it. You know the precedent -- the interpretation does set a
precedent in my mind and that
will be reflected in my vote.

Is the interpretation wrong?

You know, the Village Board
always has the opportunity to
change the code. We don't -- all
we do is interpret the code. We
don't create the code. So having
said that --

MS. ALLEN: Can I say

something.

CHAIRMAN SALADINO: Chatty,
the hearing is closed. If it is,
you know, something different.

MS. ALLEN: Just my point
of view as a driver and a
professional driver and the site
stuff that I totally disagree.

MS. MOORE: There hasn't
been a car accident down there.

CHAIRMAN SALADINO: Thank
goodness, right.

MS. MOORE: Yes, thank
goodness. And I think if you
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clearly -- I mean --

CHAIRMAN SALADINO: Can you
--

MS. MOORE: Hi. I am Diane Moore. 139 Fifty Street,
Greenport. Like my husband said,
we have lived there 47 years and
my kids grew up at the park and
down there. And there has never
been even a car accident down
there yet. Thank God.

I can tell you other stories
of what goes on down in that park
and in the road that would make
your hair curl. We just watched
a little boy. He was maybe --
maybe five or six. And he was
riding a little scooter. And it
was run by battery and he scooted
all over that park. I mean
things go on in that road.

And people park on both
sides of that street when there
are special things going on. And
we never say anything. We say, you know, it is for one day. Go have yourself a good time.

But to cut us off and to rule against us is just wrong. And especially the fence has been there for all these years. It just make no sense. Thank you.

MEMBER CORWIN: I would like to make a motion about the deck. Get those things off the table.

CHAIRMAN SALADINO: Sure.

MR. PROKOP: May I make a suggestion?

CHAIRMAN SALADINO: Sure.

MR. PROKOP: That we go through the five criteria.

CHAIRMAN SALADINO: I have them here.

MEMBER GORDON: For the deck or for them both?

CHAIRMAN SALADINO: Well, we are going to have to do them one at a time.
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MEMBER GORDON: Fine.

CHAIRMAN SALADINO: So we will do the five questions.

AUDIENCE MEMBER: It is difficult to hear any of you.

CHAIRMAN SALADINO: I apologize.

MEMBER GORDON: We are going to deal with first the deck and then the fence. Right?

CHAIRMAN SALADINO: Right.

MEMBER GORDON: And we are going to go through the five questions first for the deck.

MS. WINGATE: The lot coverage and then the fence.

MEMBER GORDON: Oh, sorry. Are we going to do lot coverage first?

MEMBER CORWIN: Let's combine lot coverage and the deck. Because I think that is going to be --

MR. PROKOP: Can I just ask
what the lot coverage is?

CHAIRMAN SALADINO: 35.2.

MEMBER CORWIN: 35.2 percent and a variance of 336 feet.

MR. PROKOP: So is the variance -- which one are we doing now, the deck?

MEMBER CORWIN: The deck and the lot coverage. And we're going to answer --

MR. PROKOP: That is a 20.5 foot front yard variance and the lot coverage is a 5.2 percent or 336 square foot variance.

CHAIRMAN SALADINO: So this is section 150-12 (a) requires a one family yard in the R2 District to have a maximum lot coverage to 30 percent. The 330 square foot deck increases the total building lot to 35.2 percent requiring a lot coverage variance of 5.2 percent, 336 feet. The existing lot coverage
MEMBER GORDON: Square feet.

CHAIRMAN SALADINO: Square feet. The existing lot coverage is 30.25 percent which includes the existing house and garage.

We will go through -- we'll go through the five questions.

Number one is: Does this variance create an undesirable change in the character of the neighborhood? Mr. Corwin?

MEMBER CORWIN: Could you read the whole question, please?

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 the area variance?

And my answer is no on the deck.

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MEMBER GORDON:  No.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  And I will vote no. Since these are abbreviated why don't you give me that.

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance?

Mr. Corwin?

MEMBER CORWIN:  No.

CHAIRMAN SALADINO:  Ms. Gordon?

MEMBER GORDON:  No.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  And I'll vote no.

Whether the requested area
variance is substantial? Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: No.

CHAIRMAN SALADINO: And I am going to vote yes.

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

Mr. Corwin?

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

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

Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board Of Appeals. It shall not be necessary to include the granting of an area variance.

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: No.

CHAIRMAN SALADINO: And I am going to vote yes.

And would you like to make a motion to --

MEMBER CORWIN: I make a motion to grant the side yard variance for the property tax map
number -- Suffolk County Tax Map
number 1001-7-4-9 for the
constructed deck. The variance
will be the 9.5 foot variance --
or rather the existing distance
is 9.5 feet when 30 feet is
required for a 20.5 variance.

MEMBER NEFF: I just want to
point out it is not a side yard
variance. It is a front yard
variance. The numbers are
correct.

MEMBER CORWIN: Okay. I
will label that and I stand
corrected. A front yard variance
because this is a corner lot.
And then a variance for lot
coverage on this property of 332
square feet for a total lot
coverage of 35.2 percent.

CHAIRMAN SALADINO: Is there
a second?

MEMBER NEFF: Second.

CHAIRMAN SALADINO: We will
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call a roll.

Mr. Corwin?

MEMBER CORWIN:  Yes.

CHAIRMAN SALADINO:  Ms. Gordon?

MEMBER GORDON:  Yes.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  Yes.

CHAIRMAN SALADINO:  And I'm going to vote yes.

MEMBER CORWIN:  I will make another variance.

CHAIRMAN SALADINO:  A motion, for the fence or the lot coverage?

MEMBER CORWIN:  For the fence. We did the lot coverage.

MEMBER NEFF:  We didn't go through the questions. We need the do that first don't we, for the fence?

CHAIRMAN SALADINO:  We are going to do it now.
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MEMBER NEFF: Okay.

CHAIRMAN SALADINO: If you would like to make that motion.

MR. CORWIN: I would like to make a motion. Is that okay with the attorney?

MR. PROKOP: We have to do the five questions before we do the motion on the application.

MEMBER CORWIN: Five questions before the motion?

MR. PROKOP: Yes. It is required by law.

CHAIRMAN SALADINO: All right, on the question of the fence. The existing 6' high fence is located within the required front yard setback along the south and west property lines. Section 150-13 B (2) of the Village of Greenport code requires that a corner lot, front yards are required on both street frontages. One yard other
than the front yard shall be deemed to be a rear yard and other or others be to the side yard.

MEMBER NEFF: Again, I want to point out that this property has three front yards and one side yard. It doesn't have a rear yard.

MEMBER CORWIN: I'll also point out that the applicant was given the opportunity when the initial application was here to choose a side yard and a backyard. And as far as I know that never happened.

MEMBER NEFF: How can you choose other than what stands right in front of you?

MEMBER CORWIN: That is what Chairman Moore gave the applicant the opportunity to do. Take that up with Chairman Moore.

MEMBER NEFF: Okay.
MR. MOORE: Excuse me, could you repeat that? I didn't quite hear what you said. Could you just repeat that?

MEMBER CORWIN: When the original application was here and you weren't at the meeting, Chairman Moore said you have to designate a side yard and a rear yard. And as far as I know that was never done. That information may not have been directed to you. I think Mr. Underliner -- I can never say his name.

MR. MOORE: That is the first I have heard of that. I have not heard anything about that.

MEMBER NEFF: Could I point out that -- you can't -- if you have three front yards you don't have two other yards to designate one rear -- rear and one side. That was a mistake. I do not
recall. We do not have the minutes here present to look them up that Chairman Moore said that.

MEMBER CORWIN: Well, I think what Chairman Moore was getting at is because it is a curb, at some point in time you can say it is a backyard rather than a side.

MEMBER NEFF: Well, is it a road or is it not a road? I mean --

MEMBER CORWIN: Let's not argue this. Let's just move it ahead as best we can.

MEMBER NEFF: All right.

CHAIRMAN SALADINO: All right. On the question. 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 the area variance?
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MEMBER NEFF: Are you talking about the fence now?

CHAIRMAN SALADINO: Yes.

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: No.

CHAIRMAN SALADINO: And I will vote yes.

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance?

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms.
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Gordon?

MEMBER GORDON:  Yes.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  And I'll vote yes.

Whether the alleged difficulty was self-created. Mr. Corwin?

MEMBER CORWIN:  Yes.

CHAIRMAN SALADINO:  Ms. Gordon?

MEMBER GORDON:  Yes.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  And I'll vote yes.

Can we get a motion on the variance?

MEMBER CORWIN:  I'll make the motion, but before I do I just want to say that at the last
meeting I tried to come up with a compromise and say well, 5'. That went nowhere so here we are now.

So I will make a motion to the Village Board -- the Zoning Board of Appeals, Village of Greenport approve the existing 6' foot high fence on the side yard at Suffolk County Tax Map 1001-7-4-9.

CHAIRMAN SALADINO: Is there a second?

MEMBER GORDON: Second.

MEMBER NEFF: I want to point out that it says front yard not a side yard.

MEMBER CORWIN: Okay. You keep correcting me. I'm sorry. Front yard. You are correct.

MEMBER NEFF: All right.

CHAIRMAN SALADINO: There was a second?

MEMBER GORDON: Yes. I
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second.

CHAIRMAN SALADINO: Mr. Corwin?

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: Yes.

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

MEMBER CORWIN: Can I just suggest that you announce for the record what was the outcome of the vote.

CHAIRMAN SALADINO: It has been suggested that for the record we announce the outcome of the two votes. A first vote -- the first variance passed and the second one failed.

MR. PROKOP: So the first two variances that had to do with
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the deck?

CHAIRMAN SALADINO: And the

lot coverage.

MR. PROKOP: The front yard

setback and lot coverage passed.

And the variance that had to do

with the fence was denied.

CHAIRMAN SALADINO: The as

built deck and lot coverage

passed.

Next on the agenda is -- is

discussion and possible action on

an area variance for Carlos

Saavedra and Nicole Eckstrom,

Greenport, New York. Suffolk

County Tax Map 1001-7-4-9. The

property is located in the R-2
district and not located in the

Historic District.

MEMBER CORWIN: Wait a

minute I have 28.9 and you said

.9.

MR. SWISKEY: The tax map

number is wrong.
MS. WINGATE:  4428.1

MEMBER CORWIN:  Let's take
the tax number 28.1.

CHAIRMAN SALADINO:  Why
don't we take it off the
application?

MEMBER CORWIN:  Yes.

CHAIRMAN SALADINO:  All
right.  The Suffolk County Tax
Map number is 1001090428-1.

MS. WINGATE:  The legal
notice is correct.  The newspaper
is correct.  The public hearing
notice is correct.  It is only
the agenda that has a typo.

CHAIRMAN SALADINO:  Does
anybody take exception to that?

MEMBER NEFF:  No.

AUDIENCE MEMBER:  Let's not
waste an hour.

CHAIRMAN SALADINO:  I'm
sorry.

AUDIENCE MEMBER:  Let's not
waste an hour arguing over it.
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Let's move on. Let's get going here. I've been working since 5:00 this morning.

CHAIRMAN SALADINO: I've got a sandwich in my coat.

Is there any discussion on this?

MEMBER CORWIN: Let's just say again because there was a question from the audience, what is it? It is for 502 Front Street. That is the corner with Fifth Avenue and it is Suffolk County lot number 1001 block of 4 lot of 4, 29.8

MEMBER NEFF: 28.1.

MEMBER CORWIN: 28.1. I'm sorry. Thank you.

AUDIENCE MEMBER: Are we sure? Just asking.

MEMBER CORWIN: I'm sure as long as you don't bother me again.

CHAIRMAN SALADINO: Is there
to make one note that that hedge
that is there on the property
next door is about eight feet
high. That's kind of a gray area
because it is in effect a fence
but because Mr. Koppel
(phonetic), when he was mayor,
tried to include hedges as fences
and he caught a lot of heat for
that, that he never pursued that
to try to include hedges as
fences.

That being said it is eight
foot high and it is easy to say,
well you can't see the fence in
the application. Sure you can't
because an eight foot hedge is
covering it up. That at some
point in time may be cut down to
four feet or removed and a four
foot fence put in. Then you will
clearly be able to see the six
foot high fence.

CHAIRMAN SALADINO: I am
going to raise the same issue as I did with Mr. Moore's fence. I mean we have an interpretation, whether we like it or not, we are stuck with it. I personally believe it carries the weight of precedent. That down the line we're going to have to follow that interpretation. Again, some of my colleagues don't agree.

I think also, as I mentioned before, the height of the fence that has nothing to do with land use. That is personal desire. I personally would be willing to hear from alternatives from the -- if the applicant has an alternative for us, now would probably be a good time to --

MR. SAAVEDRA: An alternative to replacing the fence?

CHAIRMAN SALADINO: Or a portion of it. Yeah.
MR. SAAVEDRA: I honestly don't have an alternative for the existing fence. I don't know. Sorry.

CHAIRMAN SALADINO: And you know the phrase in zoning is practical difficulty. You know, if you weren't to get -- what is the practical difficulty in having a four foot fence?

MR. SAAVEDRA: The existing fence was fairly expensive.

CHAIRMAN SALADINO: We can't -- we can't -- that is not for us to entertain, the cost of the project because in all fairness the project was done without a permit. If you had gone to the building inspector she would have explained it to you and you wouldn't have incurred that expense.

What is the pleasure of the board? Are we going to go
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through these five questions?

MEMBER NEFF: I would like to point out again to begin by looking at the location -- or the placement of the house on the property. You once again see that it already has two front yards. The house isn't 30 feet away from the Fifth Avenue side.

It -- it is in fact -- one part of it is -- it looks like thirteen or fourteen feet. This fence is also -- on the other side of the fence there is a property --

CHAIRMAN SALADINO: Hold on.

MEMBER NEFF: Okay.

CHAIRMAN SALADINO: Okay.

MEMBER NEFF: -- is -- there is a structure on that property which is nowhere near this fence. At some point in time the new owner may not buy that structure or build another structure but --
and under those circumstances what the code requires will keep a spacing between this property and the adjoining property.

Since -- this fence -- and I want to commend -- I think it is the village or whoever got the hedges in this location and other places in the village -- they were crowding the sidewalks, to go back to the property line, is incredibly significant for the health and safety and -- in the village.

This particular 6' fence, if we were to ask the owner to modify it so that the first section of it, the -- eight feet was lowered to four feet, how would the board view that kind of suggestion? We can't ask the person to do it but it is a modification to consider.

CHAIRMAN SALADINO: I'm -- I
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MEMBER NEFF:  28.1

MEMBER CORWIN:  28. I'm sorry. My brain -- 28.1. That we declare it a type 2 action for the purposes of the State and Environmental Quality Review Act.

CHAIRMAN SALADINO:  Is there a second?

MEMBER GORDON:  Second.

CHAIRMAN SALADINO:  I'll call the roll. Mr. Corwin?

MEMBER CORWIN:  Yes.

CHAIRMAN SALADINO:  Ms. Gordon?

MEMBER GORDON:  Yes.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  Yes.

CHAIRMAN SALADINO:  And I'll vote yes.

On the question of variance, number one is: Whether an undesirable change will be produced in the character of the
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neighborhood or detriment to
nearby properties will be created
by the granting of the area
variance?

Mr. Corwin?

MEMBER CORWIN:  Yes.

CHAIRMAN SALADINO:  Ms. Gordon?

MEMBER GORDON:  No.

CHAIRMAN SALADINO:  Ms. Neff?

MEMBER NEFF:  No.

CHAIRMAN SALADINO:  And I am
going to vote no.

MEMBER NEFF:  I didn't hear
what you said.

CHAIRMAN SALADINO:  I voted
no.

Whether the benefit --
whether the benefit sought by the
applicant can be achieved by some
method feasible for the applicant
to pursue other than an area
variance?
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Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: Yes.

CHAIRMAN SALADINO: And I vote yes.

Number 3: Whether the requested area variance is substantial?

Mr. Corwin?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: No.

CHAIRMAN SALADINO: And I will vote no.

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

MEMBER CORWIN: No.

CHAIRMAN SALADINO: Ms. Gordon?

MEMBER GORDON: No.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: No.

CHAIRMAN SALADINO: And I'll vote no.

MS. WINGATE: I can't hear you, John.

CHAIRMAN SALADINO: I'm sorry. I vote no.

MS. WINGATE: And the last one?

CHAIRMAN SALADINO: No.

Whether the alleged difficulty was self-created? Mr. Corwin?
Member Corwin: Yes.

Chairman Saladino: Ms. Gordon?

Member Gordon: Yes.

Chairman Saladino: Ms. Neff?

Member Neff: Yes.

Chairman Saladino: And I'll vote yes.

Can I get a motion to approve the variance?

Member Gordon: So moved.

Member Neff: Second.

Chairman Saladino: Mr. Corwin?

Member Corwin: No.

Chairman Saladino: Ms. Gordon?

Member Gordon: Yes.

Chairman Saladino: Ms. Neff?

Member Neff: Yes.

Chairman Saladino: And I'll vote no.
To the applicant, I'm sorry.
A two-two tie, it fails.

The next item is a continuation of public hearing.
The continued public hearing on the application of SAKD Holdings, LLC. Daniel Pennessi, President.
The property is located on the southeast corner of Front and Third Street, Greenport, New York. Suffolk County Tax Map 1001-5-4-5.

The applicant proposes to construct a new, mixed use, three-story building, having an 80 seat restaurant, and 715 square feet of retail use, on the ground floor and hotel uses for 16 units on the second and third floors, as well as a roof deck.

The proposed uses are conditional uses under Greenport Village Code Sections 150-11(b) (1), (2) and (3). The property
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is located in the Waterfront

Commercial District. The

property is not located in the

Greenport Village Historic

District.

Is the applicant here?

MS. WINGATE: He did call

earlier and said he was en route

but he felt that because he

wasn't the first on the agenda

that he would be here by the time

you called this.

CHAIRMAN SALADINO: At this

-- what we had planned to do was

ask the applicant for an

indulgence. I will explain to

the public.

Normally interpretations

have their own separate hearing,

public hearing. We would have

had a public hearing for the

interpretations. We would have

had a public hearing for whatever

variances came out of that first
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public hearing. These two hearings were combined.

So what this board has to do is rule on the interpretations first and then whatever comes from that will determine what variances are needed. We had a question for the applicant because it's been suggested -- it's been suggested that once we rule on the interpretations the 62 day clock would start.

We would like to ask the applicant to agree to let us rule on the interpretation and then continue the public hearing, allow the public to continue to speak at the public hearing, eventually close the public hearing and at that point the time would start, the 62 day clock would start.

The applicant not being here I have a couple of letters. Do
we have any more letters? Do you have any comments from anybody?

MS. WINGATE: No.

CHAIRMAN SALADINO: I have a letter from Debra Rivera that she had wanted read into the record. This is from Debra Rivera. Do we have an address for her? For those who don't know, she owns the Greenporter Hotel. I guess we will use that as the address.

To the Board of the Village of Greenport. I am pro-business and am always for the growth and progress of a society and for equal provision of growth rights for all. In other words, an equal playing ground.

Over the years I have seen the plans of other business owners come to halt over the size of placement of windows, lack of parking and neon lighting. If we grant variances for development
that exceeds what a business can house without infringing on the property of our public citizens we are entering into territory that far exceeds issues of window dressing and mood lighting.

At the Greenporter we have 35 parking spaces for 30 guest rooms on one acre of land. As a result our front desk spends part of the day asking non-guests to remove their vehicles from parking lot -- from the parking lot. We understand their frustration in that they cannot park -- cannot find parking anywhere downtown and try to use our lot as filler for municipal parking. A project with 16 guest rooms and an 80 seat restaurant would deplete the already dire parking situation in our village.

Secondly, if we grant variances for setbacks and a
third floor I can assure you that other hotel owners will also want to start building rooms on their parking lots in order to remain competitive and would have to include myself in that equation. Granting these variances will open a can of worms from which we will never recover. The traffic will become even more unbearable and the quality of life for the residents will certainly be further compromised. We need to resolve our parking issues and treating all businesses equally in granting any further variances.

Thank you. Debra Rivera Pittarino, Greenporter Hotel.

I have a couple of comments from -- from Doug Moore. In the interest of full disclosure, Doug Moore is the Chairman of the ZBA. He -- he asked me to make these
comments. I think I'm going to reserve them until the applicant comes, so he can hear them. And I think we have a copy of this for the applicant, so he can read them. The public hearing is still open.

MEMBER CORWIN: Well, we would have to open it again because we adjourned it.

MEMBER GORDON: Can we not discuss the interpretations before we reopen the public hearing.

MEMBER NEFF: I have a suggestion.

CHAIRMAN SALADINO: We -- we can open the public -- the public hearing is open. It was just adjourned until tonight. The public hearing is open. We can hear from the public without deciding -- the procedure would have been to let the public
comment on the interpretations.
At that point after the applicant had explained his position, after the municipality -- after the village -- explained her position we then would have let the public speak and we would have made our interpretations.

MEMBER NEFF: I have a suggestion. Could we halt for five minutes and ask the building inspector to attempt to reach the applicant by phone and just see if he is going appear in like a few minutes because -- to begin and then he walks in -- and if he is not coming then we have to decide side whether -- what we pursue in his absence. Can we do that? I'm asking for a few minutes. It doesn't have to be five.

MEMBER CORWIN: My preference would be to move ahead
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and discuss the interpretations.

If the applicant shows up -- I
don't get paid for being here and
I put a lot of time into getting
here. If the applicant can't
make it, as far as I'm concerned
too bad about him.

CHAIRMAN SALADINO: David --

David, in all fairness to the
applicant, I believe he lives in
Mount Kisco.

AUDIENCE MEMBER: Aww.

CHAIRMAN SALADINO: That is
not -- the fact that he lives
further away is not what I'm
asking. We have all traveled on
the Long Island Expressway and
the Long Island Expressway at
times can be --

AUDIENCE MEMBER: Excuse me.

If I were --

CHAIRMAN SALADINO: We are
just going to -- I'm not inclined
to call him. I -- I think we can
hear from the public on the interpretations and when Mr. Pennessi shows up we can hear his side of the story. And then we can hear from the building inspector. And so I'll ask -- is it in fact we have to reopen --

MR. PROKOP: It is not reopening. It is continuing opening. I just want to mention, you know, looking back -- by looking back through the records of the last hearing there wasn't really much put on the record regarding the interpretations. I mean, there was some comments by the applicant but some of the interpretations are based on things like findings that you need to make about the existing of properties in the past and things like that.

CHAIRMAN SALADINO: I'm willing to let the public speak
on the interpretations. I would
rather we don't get into the
variances because we don't know
-- we don't know exactly what
variances we are going to have.
So if a member of the public has
a comment on the code itself I
would be willing to let them
speak.

As far as Mr. Pennessi, I'm
sure he has a point of view, why
he thinks, you know, there should
be an appeal from the building
inspectors decision and I am
anxious to hear from the building
inspector also.

Again, if there is a member
of the public that can keep their
comments as far as the
interpretations we can --

MR. SWISKEY: William
Swiskey, 184 Fifth Street. I
really hate to ask this but there
has been three errors on this
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agenda. I mean it supposedly was checked --

CHAIRMAN SALADINO: The interpretations. The interpretations. What do you have to say about the interpretations?

MR. SWISKEY: I understand but can somebody on the -- because I want to speak on a couple of them. Are they worded right? Is this the correct wording?

CHAIRMAN SALADINO: To the best of our knowledge, this is what -- your are more than welcome to go through the -- the -- the agenda and the public notice and compare. To the best of our knowledge they are correct.

MS. SWISKEY: All right. I mean because they are reviewed by the lawyer and the Village Clerk
and other people. It is just surprising that there is that many -- anyway.

The only interpretation that I am really interested in is the one about the existing structures in the village not being proper and I guess the applicant's interpretation of that is --

CHAIRMAN SALADINO: The existing structure --

MR. SWISKEY: The existing lot, if it had a structure it doesn't need parking. It is exempt. It is like -- it is sort of like American Beach was exempt when they put the apartments upstairs. Because of the existing building they didn't have to provide additional parking. And I'm trying to find --

CHAIRMAN SALADINO: American Beach never came before the ZBA.
MR. SWISKEY: I understand that.

CHAIRMAN SALADINO: So we have no knowledge.

MR. SWISKEY: I understand that. There is an interpretation by the building inspector and I want to ask about that interpretation. But the interpretation, I believe, I remember reading it. It says that if there was something on the property basically in 1991, it was improved, it is exempt from parking.

Now I know there was a gas station there in 1991 and some people might argue, well, it is no longer there except the code makes no reference if the building has been removed. It only says if it was improved in 1991. Now I could be off base with that, but I think than one
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could be a little touchy.

I'm against this project.

It is crazy. It is too big for the corner. It would create a humongous parking problem. We already have a traffic problem with the ferry. What would happen if the ferry unloads at the same time three or four cars are trying to get into this and the light is red. It is going to be gridlocked in the main part of the village. So, that is the problem about the interpretation about the -- I think he is right.

MEMBER CORWIN: Bill.

Before you sit down, Bill.

MR. SWISKEY: Yes, David.

MEMBER CORWIN: You just said that in 1991 there was a gas station there.

AUDIENCE MEMBER: There was not.

MEMBER CORWIN: I don't
believe there was.

MR. SWISKEY: I believe there was a structure there. We would have to check the tax records. Has the building inspector checked the tax records? Because -- it would have been -- that was improved property. It would have -- so that is the only land that we can really compare to. Has anybody done that?

MEMBER CORWIN: My recollection --

MR. SWISKEY: Not recollection. My recollection is it was there. The way to prove is the tax records. Am I right or wrong?

CHAIRMAN SALADINO: We are going to make -- we're going to make an interpretation about this portion of the code.

MR. SWISKEY: I understand
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that.

CHAIRMAN SALADINO:  And what we decide here tonight,
regardless of what others might think, will decide whether this
guy needs a variance.

MR. SWISKEY:  The one variance --

CHAIRMAN SALADINO:  For parking or not.

MR. SWISKEY:  The one variance, all right.  Now that could always be overturned by an Article 78.

CHAIRMAN SALADINO: Absolutely.  That is always somebody right.

MR. SWISKEY:  Yes.  The way I read that --

CHAIRMAN SALADINO: Just -- just for the record, are you suggesting that you are going to file an Article 78?

MR. SWISKEY:  Of course not.
Why would I?  I have no standing.
The owner has standing or another person that might want to do something similar in another location --

CHAIRMAN SALADINO: Bill, we are not going to do what if questions. We are going to talk about the interpretations. I will let you ask as many questions as you want about interpretations. But we are not going to do what if questions.

MR. SWISKEY: What if is an interpretation question. In other words, that should enter into your decision because once you make this decision it is forever and it may affect other properties. In this village too many things don't get enough consideration.

CHAIRMAN SALADINO: I'm going to give you my personal
assurances, Bill, that we are going to take this seriously. We're going to give it as much consideration as it needs. And I'm sure between the four people here tonight, we will come to an informed decision.

MR. SWISKEY: I understand that John, but it is like -- I know that this agenda was reviewed by a lot of people. And for this many errors to be on the first page, well it makes me nervous.

MEMBER GORDON: Is there -- has there been --

CHAIRMAN SALADINO: Excuse me. I'm sorry.

MEMBER GORDON: As a factual matter, what was the state of this piece of property on January 1, 1991? Do you know?

MS. WINGATE. I do not know.

MR. PROKOP: That is what I
was talking about before. We really shouldn't do it by people's recollection. At a meeting with -- what we need to do, there is many sources that we can rely on such as aerial photographs. There are places to go aerial photographs at sequential dates and with, you know, the applicant really should be coming up with this. I mean he has got an enormous amount resources at stake. And we -- I mean we may end up doing this but we really to shouldn't. I really caution the board not to go based on people's recollection.

MEMBER GORDON: I absolutely agree. I thought that there would be some paper records.

MR. PROKOP: We really need some kind of evidence filed on the record to make a determination like this.
CHAIRMAN SALADINO: Well, I would ask -- I would ask the attorney, at what point does -- the applicant's contention is that once improved, always improved. I -- I -- I take exception to that.

MR. PROKOP: To me or to the applicant?

CHAIRMAN SALADINO: What?

MR. PROKOP: To me or the applicant?

CHAIRMAN SALADINO: No. I had asked the application at the last -- at the last -- at the public hearing last month if his contention with this interpretation is that once a property is improved it is always improved. It never becomes unimproved. And his contention was yes. And I disagree. So I would ask you at what point in time -- or I would ask the
building inspector, at what point in time does a property become -- how long does it have to lay foul to be unimproved?

MS. WINGATE: The code reads, the use, adaptation or change of any building within the CR and WC district that was in existence as of January 1991. This is not a change of use. This is not an adaptation. This is not building.

MEMBER GORDON: I have a question. Also, if the -- what is it -- 150-12(c) from which the building inspector read also says at the end, this exemption shall apply thenceforth to improved parcels only and shall not apply to unimproved parcels, notwithstanding other provision to the contrary. And there is another provision which the applicant sites, which is 150-16A
(1) which says, land within the 
CR and WC districts which is 
improved as of January 1, 1991 
shall be entirely exempt from 
off-street parking requirements 
and from payments in lieu 
thereof.

And that refers to -- and 
doesn't have is be a building. 
It is specifically described as 
land. So my question is: Is 
this a -- is this relevant or 
not? I'm really asking the 
attorney. I am asking you 
whether that is relevant or 
whether that comes within this 
phrase, notwithstanding other 
provisions to the contrary? In 
which case we could discard the 
consideration of 150-16 A (1) all 
together.

MR. PROKOP: So 150-12 A (1) 
has a requirement. 150-12 C has 
an exemption.
MR. PROKOP: The exemption is for use application or change of use of any building within the CR and WC districts in existence as of January 1, 1991 shall be entirely exempt, etcetera. But then it says this exemption shall apply to improved parcels only and shall not apply to unimproved parcels. Which would seem pretty clear to me.

CHAIRMAN SALADINO: I would like to make -- the comment I have is that is it -- it reference adaptation, change of use -- in my mind currently existing buildings. And if the building is to be used or adapted in the present it must have been in existence since 1991.

MR. PROKOP: Right. That is another way of looking at it. I agree.
CHAIRMAN SALADINO: So, I mean if there is no building, there can be no exemption.

MEMBER GORDON: Except -- then on 150-16, it has this provision that applies to land. Now maybe we don't have to consider that provision. Because -- because of this phrase in 12 -- 150-129(c) which says notwithstanding other provisions to the contrary. But it seems to me, unless you consider that this is unimproved land that this provision, 150-16 does apply.

CHAIRMAN SALADINO: My suggestion right now is the applicant is here. We're going to let -- if he would, Mr. Pennessi -- we explained to the public before that we have a little dilemma. We would ask you -- we would like to do the interpretations
tonight. We would like to keep
the public hearing open. We
would like to do the
interpretations tonight but if
you would agree we don't start
the 62 day clock. We would just
like to get the interpretations
out of the way. We would like
you to speak. Be responded to by
the building inspector. Have our
discussion and perhaps come to a
decision about the
interpretations.
So I would ask you now is
that agreeable to you?
MR. PENNESSI: Yes.
CHAIRMAN SALADINO: I am
going to ask the attorney is
there something else I should be
asking to protect the applicant
and to protect the village as far
as --
MR. PROKOP: No, that's -- I
think were okay. You should ask
the applicant to agree to a separate determination with the -- with regard to the interpretations prior to the interpretations -- excuse me. Prior to the decision on the variances. Without considering a end -- or interruption of the public hearing.

MR. PENNESSI: Yeah. That would be fine. I did -- let me just apologize to the board and the public or being late.

If I could just maybe give a quick intro and a response to where we left off last month.

We have looked at the plans and we reviewed the comments that were made at that last public hearing. If it is all right with the board I would like to just take a few minutes.

CHAIRMAN SALADINO: Sure.

MR. PENNESSI: Daniel
So we listened to the comments and we went back and reviewed a couple of the public records and some of the due diligence that was performed on the property before we first appeared before the Planning Board. And that diligence, it reflected a couple of things that we are talking about here that are relevant to some of these variances or some of the interpretations that we are looking for from the ZBA.

The first is the LLRP from January 2014, which has not yet been adopted, specifically identified this property, even by picture suggesting that it would be incorporated into a separate designation that might allow for a mixed use concept on the first
floor, use as identified currently in the waterfront commercial district which includes retail and restaurant and residential on the upper floor. I would just like to point that out because there had been some village wide planning done at the time that identified a use very similar to the building that is being proposed here for that specific property.

I also would like to point out as part of our environmental review of the property that in 1882 this property was improved by the Peconic Hotel and has since over time been improved by a service station and has housed a carousel for a certain period of time and then a storage area for the village until it became vacant. So I just wanted to point those things out. It is
important -- and you guys were
talking about it when I arrived.
That specifically the applicant's
contention is that according to
150-16(a) (1) there is no
off-street parking requirement.
This is not a variance that we
are looking for. There is no
parking -- no off-street parking
required for this parcel because
it was improved as of January 1,
1991, to be very clear.

The other thing I would like
to say in response to some of the
comments, we have looked at the
plans -- and for example, the
setbacks -- there are things we
can do to reduce the setbacks to
add a loading area for certain
periods of time on the parking --
proposed parking area. By
reducing the setbacks, in our
opinion it detracts from the look
of the hotel, of the aesthetics
of the hotel. But we could do those things. It very much limits the coverage that we would exceed. It may even then conform to the 40 percent lot coverage.

If that is something that the village wants, we can certainly do that. It would -- for example, eliminate on Front Street the raised patio area and replace it with kind of what you would see in front of the Harbor Front Inn which is just an extended concrete sidewalk to the building. Not ascetically pleasing but it eliminates that interpretation and that variance from this application.

CHAIRMAN SALADINO: Excuse me. Wasn't there a mutual agreement about the lot coverage between you and the building inspector? So we are not even going to consider an
interpretation the lot coverage.

Didn't you withdraw that?

MR. PENNESSI: I withdrew the contention that the building conformed to a lot coverage and that we would in fact, have to proceed with obtaining the variance. But what I'm saying is that based upon additional discussions with the building department and some of the comments that were made at the last public hearing is that we can reduce the variances being sought. We can eliminate certain aspects of the building that detract from the aesthetics of it but will eliminate the variances.

Let's take for example the setbacks. We can eliminate the raised patio along Front Street. We can eliminate the trellis there. We can push the steps at the corner of Front and
Third back into the building. We can eliminate the trellis along Third Street. The building doesn't look as nice but if that is something the village wants to do, we can do that. And by doing that we are very close to not even needing a variance for lot coverage. We can get very, very close to the 40 percent. I still need to confirm that with the architect, who couldn't be here today. But we could do that.

That would not eliminate the need for a height variance. The way the building is built and because of new construction building codes and ABA requirements, that bulkhead would be required -- if the height variance is not granted you can -- you would still need a bulkhead for the stairwell and the elevator. And it will
eliminate an entire floor of the building.

MEMBER GORDON: Eliminate -- I didn't hear what you said.

MR. PENNESSI: An entire floor of the building. We still need to access the roof. There still needs to be roof access. So if the height variance isn't granted it becomes a two story building. And we would need to decide whether we would proceed with an application for a two story building.

MR. PROKOP: Well, that is -- it is two height variances. Because you need a height variance for a three story building. Or I am wrong?

MR. PENNESSI: Correct. We need a height variance for a three story building, but in addition, if that is granted we are seeking height variances
MR. PROKOP: You don't want to include certain things in the height. You don't -- the top of the improvement is 47 feet, but you said you don't want us to include the top 12 feet because -- in that calculation because there are parapets and things like that, right?

MR. PENNESSI: Yeah.

MR. PROKOP: What you are saying though -- the point that you missed before is that you only -- variance number two, which is what you just said, it would preclude a third floor. You only get to that situation if we agree to the third floor to begin with.

MR. PENNESSI: Agreed.

MR. PROKOP: Okay.

MR. PENNESSI: If the board agrees to a three story building,
in addition to that three story
building there will just be the
need for certain variances for
rooftop access. We wouldn't be
asking for a 47 foot clear height
variance. It would be for up to
47 feet for the elevator
stairwell bulkhead. There is
some parts south of the 47 feet
for a trellis for the rooftop.
Somewhere south of that for
rooftop equipment that would keep
the parapet.

MS. WINGATE: I believe that
New York State building code has
alternative methods for you to
get on your roof and maintain
your roof without having a
bulkhead.

MR. PENNESSI: I spoke with
the architect before I got here
and within the last couple of
weeks to figure that out. His
opinion is that there wouldn't be
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a need for a stairwell bulkhead to get up onto the roof in addition to a three story building. If the village wasn't going to approve the variance for a three story building, it would effectively eliminate the third floor.

MS. WINGATE: I think that is a bit dramatic.

CHAIRMAN SALADINO: Would --

would you like to address the interpretations now so we can hear --

MR. PENNESSI: If the board would like to we certainly can. I would like to know if the board would first like to make a decision on whether it would prefer that we eliminate some of these variances that are being requested so that we could focus on the remaining two which is the parking.
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CHAIRMAN SALADINO: No. I think the board would rather deal with the interpretations and then deal with the variances en mass and we can eliminate the variances or enforce as we go.

You asked for the interpretations. You know, we are willing to listen or be the grantor or --

MR. PENNESSI: I was simply trying to be responsive for some of the comments made at the public hearing because there was the concern that there was too many -- multiple variances being sought.

CHAIRMAN SALADINO: Well, it would be to your advantage if we ruled on three of these interpretations. That would eliminate three variances, right?

MEMBER GORDON: Could I go back, before we get too far away
shows what is on besides the
deck, the mechanicals, if I can
call them that.

MR. PENNESSI: Yes.

MEMBER GORDON: What I don't
understand is that you're saying
the mechanicals necessitate it
being 47 feet.

MR. PENNESSI: No. The
proposed project, in accordance
with the plans that have been
submitted is three stories which
would require a variance.

MEMBER GORDON: Yes.

MR. PENNESSI: The height of
the flat roof that you if you
were to walk up the steps and
step out of the stairwell is
32'9". The height of the top of
the parapet wall, which is an
interpretation, that we are going
to be talking about, where the
height is measured to is 35 feet.

The top of the safety fence that
is located around the roof deck is 36'11". No. I'm sorry. 36'9". The height for the mechanical equipment for the restaurant and retail uses is 36'11". There is a proposed trellis over the proposed roof deck, which is at a height of 42'9". And the top of the bulkhead or the shaft for the elevator and stairwell is 46'8".

MEMBER GORDON: Thank you for clarifying.

MR. PENNESSI: So only, specifically, the variances that we would be looking for -- for a height exceeding 35 feet would be only for those components and would not be for, for example, additional hotel rooms. They would only be for the components that are listed in the application.

MEMBER GORDON: Thank you
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for clarifying.

MR. PENNESSI: We would work with the village on a resolution to be specific as to what those specific item are and what the use is permitted at those height that would be allowed.

CHAIRMAN SALADINO: So by saying that you are willing to work with the village about those uses are you conceding this interpretation? Are you --

MR. PENNESSI: No. I just wanted to be clear that the height variance that we were looking for is not a 47 foot clear height variance for the building. That is not what is being sought from the ZBA. The variances -- the height variances being sought from the ZBA are what I just described specifically. With 46'8" we wouldn't be able to build a
fourth story, for example.

MEMBER GORDON: Are we going back to the exemption question which is the heart of the --

CHAIRMAN SALADINO: Well, we're going to hear from the -- the applicant made his claim. And we're going to -- if he is done addressing the interpretations we will hear from the building inspector as to her reasoning and perhaps the attorney.

MR. PENNESSI: Well, would you like to go through each interpretation. I leave it up to you. I don't know how you guys want to do it.

CHAIRMAN SALADINO: I think to make it clear for everybody perhaps we should, you know.

MEMBER GORDON: Listen, I want to point out, we have got fifteen minutes left. We got
other things we need to do. I would like to ask you Mr. Chairman to read the e-mail you got for Mr. Pennessi and Chairman Moore's letter that you were going to read after Mr. Pennessi got here. By the time you do that and we do the other stuff we are going to be thrown out of here.

CHAIRMAN SALADINO: I am going to suggest that perhaps at 7:00 we could speak to the fire wardens and ask their indulgence to keep the room for a little longer.

MEMBER CORWIN: What, they are going to stay here until 9:00 waiting on us?

MEMBER GORDON: They can wait a half an hour.

CHAIRMAN SALADINO: I don't think it is unreasonable to ask them to wait a half an hour.
MEMBER GORDON: I agree.

MEMBER NEFF: Or ask if they can --

CHAIRMAN SALADINO: I can't suggest where they should go.

Are there any firemen in the room? Perhaps Jamie, perhaps you could explain what is happening here and --

AUDIENCE MEMBER: Why don't you go ask them?

CHAIRMAN SALADINO: Well, I would have to adjourn the meeting and go back and talk to the warden. And, no, I'm not willing to do that.

If you are not willing to do that, that's fine. If not we will ask them at 7:00 when they walk in.

Mr. Corwin -- we have some comments from -- from the Chairman of the ZBA. He is not here and he sent them. Mr.
Corwin, suggested that we read them to you. I guess if it -- if it pleases the board, I will do that. I kind of think we are just taking up a little more time with that.

MR. PENNESSI: Also, if I could, just before you start, did everybody on the board receive the traffic and parking study?

CHAIRMAN SALADINO: I believe we did. I believe we all did, yes.

MEMBER NEFF: Are you talking about the traffic study of 2008?

MR. PENNESSI: No. 2016.

MEMBER NEFF: There is a new one?

MR. PENNESSI: Yes.

MEMBER GORDON: I did not receive it.

MS. WINGATE: They were all in your boxes.
off-street parking requirements that is provided in this or in any other article. This comment is, the above reference is use adaptation or change of use of currently existing buildings which were present in 1991. If the building is to be used or adapted in the present it must have been in existence since 1991. If there is no building present there can be no exemption. The code refers to the building and not should imply that past history then carries to the lot.

With a note, the exception was created by the Village Board of Trustees to relieve existing buildings in the business district which had little or no parking available. The then existing parking requirements would have prevented any new uses
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paying a bounty, section 150-16(g) the planning board may, when it deems to be in the best interests of the village, require an owner to deposit a cash payment in lieu of any parking requirements set forth in this section or 150-12, but not to exceed a waiver of more than 20 required parking spaces. The amount to be paid is $2500 per parking space required but not provided. Said funds will be deposited with the village board and maintained by the village board in a special fund and used by the board for the construction, acquisition or maintenance of public parking facilities.

Any decision of the planning board pursuant to this section may be appealed to the village board within 60 days of the
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filing of the planning board application.

And his comment is: the section provides a waiver of up to 20 spaces at the discretion of the planning board if it is determined to be in the best interests of the Village of Greenport. The allowance may be appealed to the Village Board of Trustees. This allowance principally benefits the applicant and may not be in the best interests of the village.

The allowance has yet to be granted by the planning board and may not apply to the ZBA's current deliberation for a variance of 24 spaces. Regardless, the applicant has not shown any alternatives to satisfy the parking requirement and still would be short of the required number, even if 20 spaces were
allowed through the waiver.

We can make a copy of this for you if you want it.

MR. PENNESSI: Thank you.

MEMBER CORWIN: And the e-mail, just so Mr. Pennessi knows. This is part of the public hearing.

MEMBER GORDON: I have a question. Is there -- and this may be for the village attorney. Is there a definition of improved and unimproved that we can rely on? I mean I can imagine an interpretation of improved that would include a parking lot which is effectively the surface that is on the lot.

MR. PROKOP: There are definitions that we can rely on.

I wanted to mention to the board something that occurred to me in discussion that I spoke to the building inspector about.
This decision already came before this board several years ago in another project. At that time we determined that the parking -- there was not an exemption of the parking requirement that was available. So I think that that prior decision is binding on this board. We don't have any basis to change that prior decision.

MR. PENNESSI: Can I ask you what decision that was?

MR. PROKOP: I think it was Greenport Gateway Partners.

MR. PENNESSI: Because there is a resolution dated March 20, 2002 for the Harbor Front Inn. They went to the ZBA to determine the property which the Harbor Front Inn was exempted from off-street parking requirement pursuant to section 150-16 of the village code.

MR. PROKOP: Right, but what
we are talking about --

MR. PENNESSI: The precedent where the ZBA has determined that no such off-street parking was required on the prior owned property.

MS. WINGATE: That was a building that was torn down in order to build a hotel. So there was no building on the site that existed while the hearings were going on.

MR. PROKOP: What you are proposing was already proposed. I think it was like in 2005 and 2006 and at that time this board determined that the parking exemption did not apply and I think were are bound by that decision.

MR. PENNESSI: If somebody could send me that decision because we had FOILed for all such resolutions related to
exemptions and did not receive that resolution.

MS. WINGATE: Sure.

MR. PENNESSI: That was 2005?

MEMBER NEFF: I think that was 2008.

MR. PENNESSI: When was the Harbor Front Inn building built?

MEMBER CORWIN: I'm sorry.

I am sorry for interrupting everybody. We are not going to be able to finish this tonight. I'll tell you that right now.

The wardens signaled they want the room at 7:00.

So I move that we adjourn the public hearing once again and take this matter up at the April meeting. And I know we have nothing on the agenda for the April meeting so maybe we can get through some of it.

MR. SWISKEY: How about we
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move the April meeting.

MEMBER CORWIN: Well that is the next thing I want to talk about. If we can with get passed this.

There is a motion on the table.

MEMBER NEFF: Second.

MR. PENNESSI: May I make a request?

CHAIRMAN SALADINO: Sure.

MR. PENNESSI: If the board is willing and there is alternative space available now, would they consider continuing this discussion this evening. Not in this location.

CHAIRMAN SALADINO: I'm not going to suggest that.

MEMBER CORWIN: We can't do that.

CHAIRMAN SALADINO: I think that this is something that was foreseen. I think one or two
organizations are perhaps being territorial.

MEMBER NEFF: Maybe --

MEMBER CORWIN: There is a motion on the table.

CHAIRMAN SALADINO: There is a motion on the table. There is a motion to adjourn this public hearing until next April -- until April --

MEMBER CORWIN: April 20th, we have down here. And we might change that.

CHAIRMAN SALADINO: To April 20th.

All in favor?

MEMBER CORWIN: Aye.

MEMBER NEFF: Can I ask that we delay the vote until we determine if there is an alternative that is available for us to continue this discussion.

CHAIRMAN SALADINO: What could that alternative possibly
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be?

MEMBER NEFF: The exempt fire building? No.

CHAIRMAN SALADINO: I'm not going to suggest that?

MEMBER CORWIN: I'm not willing to put that kind of time into it. It is a half an hour to get set up.

CHAIRMAN SALADINO: I'm not going to suggest that.

The motion was made. It was seconded. Do I have to call the roll or are we going to vote?

MEMBER CORWIN: No.

MR. PROKOP: Either way. It doesn't matter. You don't have to call the roll.

CHAIRMAN SALADINO: I'll call the roll.

David?

MEMBER CORWIN: Yes.

CHAIRMAN SALADINO: Ms.

Gordon?
MEMBER GORDON: Yes.

CHAIRMAN SALADINO: Ms. Neff?

MEMBER NEFF: Yes.

CHAIRMAN SALADINO: The public hearing is adjourned. The public hearing is adjourned until next April 20th. My apologies to the applicant. To the public. We have a few other things on the agenda.

MEMBER CORWIN: First, let me bring up the question of the time of the meeting. People have asked for a later time for the meeting. Obviously we can't do it Wednesday nights. I would like to suggest to the village board, should we move the meeting to Tuesday nights, the third Tuesday and have them start at either 6:00 or 7:00 depending on what the Zoning Board says.

CHAIRMAN SALADINO: I don't
have a problem with moving the
date or the time. The Chairman
will be back next month. I think
he should have some input. I
think by resolution this meeting
is on the third Wednesday. I
think it is up to the village
board to change the meeting date.
I don't think we have that
latitude. They asked for
suggestions. So we can certainly
make that suggestion to them.

This Tuesday, the third Tuesday?

MEMBER GORDON: Well, with
regard to the next meeting, April
19, I am giving a talk at Peconic
Landing. It would be very hard
to do the -- whatever it is, the
third Tuesday.

CHAIRMAN SALADINO: At this
point we don't have the latitude
to change the meeting. The only
latitude this board has is to --
is to perhaps change the meeting
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place. You know, I don't know --
I don't know what our
alternatives are beyond that.
The meeting is set by resolution.
The village board is the one that
changes the date. We change the
time. We can suggest to them to
move this forward right now that
perhaps an alternate location,
that is the schoolhouse. If you
would like to do that, we can do
that. People have complained to
me about the schoolhouse. There
is not enough room. They feel
claustrophobic.

CHAIRMAN SALADINO: Guys.

Guys. Can you just keep it --
she can't hear. I'm sorry.

MEMBER NEFF: Chairman, I
would like to suggest we stick to
the day, the 20th, the third
Wednesday and that we request
public -- the schoolhouse, the
building on Front Street.
MEMBER CORWIN: I am opposed to the schoolhouse for the meeting because in the summer there is just no parking and a lot of commotion. I think it should be in the firehouse. I would like to start at 6:00 or 7:00. And I still would like the third Tuesday.

CHAIRMAN SALADINO: David, we don't have -- we don't have --

MEMBER CORWIN: But we were asked by the village board for suggestions and by Chairman Moore. And that is my suggestion.

CHAIRMAN SALADINO: That's fine but we don't have -- the here and the now, right now is --

MEMBER CORWIN: So for next month we will make it the 20th at the red schoolhouse at 6:00. Is that acceptable?

CHAIRMAN SALADINO: No.
Because the problem is we don't know -- the last time we did that there was a conflict with another organization. They were nice enough to acquiesce. We don't know who is there. We don't have the calendar. I am going to make it that the meeting is here next April 20th. The meeting is here at 5:00 p.m. We will try to work something out with the fire department. If not we will come up with an alternate location to be announced at the public hearing. Right now you are asking for something we don't have the power to give. The meeting doesn't have to be Noticed until --

MS. WINGATE: Ten days before.

CHAIRMAN SALADINO: Ten days before.

MEMBER CORWIN: I make a
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motion that the meeting be held
April 20th at 5:00 in the
firehouse. The April Zoning
Board of Appeals meeting.

MEMBER NEFF: Second.

CHAIRMAN SALADINO: All in
favor?

MEMBER CORWIN: Aye.
MEMBER GORDON: Aye.
MEMBER NEFF: Aye.

MEMBER CORWIN: I make
motion to accept the ZBA minutes
of the January 20th, 2016 and the
February 17, 2016 ZBA meetings.

MEMBER NEFF: Second.

MEMBER GORDON: Can I just
ask for one correction in
February because the February
meeting -- it says the the hotel
will provide on street bathrooms,
not on suite bathrooms. On
street bathrooms would be
alarming.

CHAIRMAN SALADINO: Unless
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that was the intention.

MEMBER CORWIN:  There is a
motion on the table.

CHAIRMAN SALADINO:  We did.

MEMBER CORWIN:  No I made a
motion of accept the ZBA minutes
of January 20th, 2016 and
February 17, 2016 ZBA meetings.

MEMBER NEFF:  And I seconded
it, the motion.

CHAIRMAN SALADINO:  All in
favor?

MEMBER CORWIN:  Aye.

MEMBER GORDON:  Aye.

MEMBER NEFF:  Aye.

MEMBER CORWIN:  Now before I
make a motion to adjourn, is it
acceptable to the board to try to
move the meeting to the third
Tuesday at 6:00 or 7:00. Because
you're going to have to report to
the village board tomorrow night
so that this can be moved along.

MEMBER GORDON:  I think
there should be more than one notice than one meeting, one month. I had to miss a meeting which distresses me and I would have to miss the April meeting because I'm giving a speech at a local institution.

MEMBER CORWIN: So your answer is no.

MEMBER GORDON: After April. I think a notice of a month or two is appropriate.

CHAIRMAN SALADINO: Well there will be something in Joe's work session report. We have already scheduled the public hearing for April 20th that is done.

MEMBER GORDON: Fine.

CHAIRMAN SALADINO: The only thing that might change with that is the venue.

MEMBER NEFF: I think what we will be doing is making a
suggestion that all parties work
on finding a better time and
place, but change it to Tuesday
that doesn't fit in my plan of
how my month goes. I think we
need more information.

CHAIRMAN SALADINO: We can
certainly make our
recommendations to the village
board. The ultimate decision
lies with them. Joe is going to
bring it up at the work session
tomorrow night.

I am going to make a motion
to adjourn at 7:07.

MEMBER CORWIN: Second.

CHAIRMAN SALADINO: All in
favor?

MEMBER CORWIN: Aye.
MEMBER GORDON: Aye.
MEMBER NEFF: Aye.

(Record closed: 7:07 p.m.)
C E R T I F I C A T I O N

STATE OF NEW YORK
COUNTY OF SUFFOLK

I, Barbara D. Schultz, a Notary Public within and for the State of New York, do hereby certify:

That the within proceedings is a true and accurate record of the stenographic notes taken by me.

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

IN WITNESS WHEREOF, I have hereunto set my hand.

____________________
Barbara D. Schultz