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Regular Meeting March 16, 2016

VILLAGE OF GREENPORT

COUNTY OF SUFFOLK STATE OF NEW YORK

-----X

ZONING BOARD OF APPEALS

REGULAR SESSION

-----X

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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I N D E X

PUBLIC HEARINGS

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2 CHAIRMAN SALADINO: Folks,
3 its 5:05. This is the March
4 Zoning Board meeting. Present is
5 Ellen Neff, Dinni Gordon, David
6 Corwin and myself, John Saladino.

7 The first item on the agenda
8 is a public hearing on the
9 application for Carlos Saavedra
10 and Nicole Eckstrom, 502 Front
11 Street. Suffolk County Tax Map #
12 1001-4-4-28.1.

13 The applicants request a
14 variance of the maximum fence
15 height. The existing 6ft fence
16 is located within the required
17 front yard setback along north
18 property line, requiring a
19 variance of 2' of fence height
20 within the 30' required front
21 yard setback.

22 Section 150-13 B (2) of the
23 Village of Greenport Code
24 requires that on a corner lot,
25 front yards are required on both

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2 street frontages. One yard other
3 than the front yard shall be
4 deemed to be a rear yard and the
5 other or others to be side yards.

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

11 We have -- the Public Notice
12 was posted. We have proof of the
13 Public Notice. We have six
14 mailings. 503 Front Street
15 Corporation, 503 Front Street.
16 Maryann Yaeger, 430 Front Street.
17 Saint Agnes Church, care of
18 Flannigan, 50 North Park Avenue,
19 P.O. Box 9023, Rockville Centre,
20 New York. Kelly Ludson, 512
21 Front Street. Carol Liben, Post
22 Office Box F, Greenport, New York
23 and Stewart Kogelschatt, 2900
24 North Road, Greenport.

25 Is the applicant here?

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2 MEMBER CORWIN: Take the
3 podium if you have anything to
4 say.

5 CHAIRMAN SALADINO: If you
6 have something to say?

7 MR. SAAVEDRA: Thank you.
8 Yes.

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

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

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

23 Hence, we just had it -- for
24 the privacy for both of us a
25 fence would make sense. Our

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2 situation is also is special
3 because we are on the corner and
4 we have a fairly full green fence
5 that -- we actually -- it makes
6 the fence almost non-visible
7 except for our neighbors to it.
8 And we believe they are -- they
9 -- the height of the fence we are
10 requesting is minimum so we can
11 have privacy with the both of us.

12 And we believe in fact, that
13 the actual fence is not visible
14 from the outside. And that it
15 won't be disrupting the character
16 of the street. That is basically
17 it.

18 I can answer any questions.
19 This is the first time I am here.
20 So I don't know how this works.

21 CHAIRMAN SALADINO:

22 Thank you.

23 Is there anyone from the
24 public? Is there anyone from the
25 public that would like to speak?

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2 MR. SWISKEY: Oh, thank you,
3 neighbor. William Swiskey. 184
4 Fifth Street.

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

11 CHAIRMAN SALADINO: 32
12 feet.

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

23 But anyway, I can't see any
24 harm in this fence at all. I
25 don't know. To make the man to

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2 take it down it would be just --
3 I don't know. It would make no
4 sense.

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

12 CHAIRMAN SALADINO: You're
13 next.

14 MR. KEEN (Phonetic): Bob
15 Keen. 242 Fifth Avenue. I have
16 no objection to the fence. You
17 don't even notice it there. The
18 code in the village doesn't even
19 have anything about height
20 requirements as far as your
21 hedge. They have a 20 or 30 foot
22 hedge but then they tell you you
23 can't have a six foot fence. It
24 really doesn't matter. It really
25 is kind of ridiculous.

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2 CHAIRMAN SALADINO: It was --
3 it was -- just as a quick
4 explanation, it was legislated --
5 not even legislated. It was
6 determined years ago that someone
7 decided that a hedge wasn't a
8 fence. And that has been passed
9 down to us.

10 MEMBER GORDON: Can --

11 CHAIRMAN SALADINO:
12 Sure.

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

21 CHAIRMAN SALADINO:
22 Chatty.

23 MS. ALLEN: Chatty Allen,
24 311 Fifth Avenue. I am also a
25 school bus driver. So I use that

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2 corner quite often. Okay. But
3 whether I'm in my car or up high
4 in the bus where the fence is
5 located -- it doesn't impeded
6 anything or anyone.

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

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

25 To me, I say let them. And

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2 I also agree with this two front
3 yard business. It depends on
4 where you are and where the fence
5 is actually -- where that -- I
6 thought that was their backyard,
7 to be honest with you. Because
8 it is on Fifth Avenue and it is
9 in the back in between the two
10 properties. I'm all for it. I
11 am just saying let them have
12 this. Thank you.

13 CHAIRMAN SALADINO:

14 Anyone else? Stewart.

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

23 CHAIRMAN SALADINO: Anyone
24 else from the public?

25 I will entertain a motion to

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2 close the public hearing.

3 MEMBER CORWIN: So moved.

4 CHAIRMAN SALADINO: All in
5 favor.

6 MEMBER GORDON: Aye.

7 MEMBER NEFF: Aye.

8 MEMBER CORWIN: Are you
9 going to get a second?

10 CHAIRMAN SALADINO: Oh.

11 MEMBER GORDON: Sorry.

12 CHAIRMAN SALADINO:
13 Do we have a second?

14 MEMBER GORDON: Yes. Second.

15 CHAIRMAN SALADINO: All in
16 favor.

17 MEMBER CORWIN: Aye.

18 MEMBER GORDON: Aye.

19 MEMBER NEFF: Aye.

20 CHAIRMAN SALADINO: Item
21 number two -- item one is a
22 discussion and possible action on
23 the area variance for Robert
24 Moore, 139 Fifth Street. Suffolk
25 County Tax Map 1001-7-4-9.

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2 Applicants request the height
3 variance for a six foot high
4 fence in the front yard. The
5 property is located in the R-2
6 district and not located within
7 the Historic District.

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

16 Do we have the --

17 MEMBER NEFF: Do you want to
18 see the application?

19 CHAIRMAN SALADINO: I think I
20 have it.

21 MEMBER NEFF: Because I
22 have it.

23 CHAIRMAN SALADINO: I
24 have it. I have it.

25 MEMBER CORWIN: There

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2 is a variance for yard coverage,
3 a variance for the deck and a
4 variance for the fence, right?

5 MEMBER NEFF: Yep.

6 CHAIRMAN SALADINO: Right.
7 Is there any discussion on this
8 application?

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

12 MEMBER NEFF: Yes.

13 CHAIRMAN SALADINO: Yes.

14 MR. PROKOP: Or are there
15 other variances?

16 MEMBER NEFF: No.

17 CHAIRMAN SALADINO: No.

18 As far as the lot coverage, is
19 there -- does anybody have a
20 comment about the lot coverage?
21 The deck, we should mention is as
22 built. The fence is as built.
23 The lot coverage exceeds --

24 MEMBER NEFF: I think the
25 lot coverage -- according to my

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2 notes if you -- 36 percent,
3 whereas the code requires 30
4 percent.

5 CHAIRMAN SALADINO: It
6 exceeds the -- the --

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

9 MEMBER CORWIN: 35.2 I have.

10 MEMBER NEFF: Okay. I stand
11 corrected.

12 CHAIRMAN SALADINO: What is
13 the pleasure of the board?

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

21 CHAIRMAN SALADINO: Second?

22 MEMBER GORDON: Second.

23 CHAIRMAN SALADINO: All in
24 favor?

25 MEMBER CORWIN: Aye.

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2 MEMBER GORDON: Aye.

3 MEMBER NEFF: Aye.

4 CHAIRMAN SALADINO: I'm -- I
5 don't seem to have a problem with
6 the deck. I kind of think the
7 deck -- the property before the
8 deck was built was over -- was
9 over the lot coverage size. I'm
10 having trouble with the fence.

11 I have said this before.
12 This board made an interpretation
13 as far as fences and front yards.
14 I believe -- some of my
15 colleagues don't, but I believe
16 an interpretation almost carries
17 the weight of precedent. I think
18 -- I think to ignore the
19 interpretation, you know,
20 undercuts the legitimacy of it.
21 I think as far the height of the
22 fence, that's personal
23 preference. You know there is
24 preference, personal preference
25 as opposed to land use.

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2 I understand there is a
3 privacy issue because of the park
4 across the road. I have a
5 problem validating something that
6 was illegal to begin with.

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

9 MEMBER GORDON: May I say
10 something?

11 CHAIRMAN SALADINO: Of
12 course.

13 MEMBER GORDON: I think
14 there is a significant difference
15 between this fence and the
16 previous fence we discussed
17 because if the purpose of this
18 rule, which we have agreed we're
19 a little ambivalent about but
20 which exists, is to protect the
21 public because there are possible
22 site line problems with a corner
23 lot. Then I think this situation
24 does present a problem in a way
25 that Mr. Saavedra's fence does

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2 not.

3 I live nearby. I have been
4 by two or three times to look
5 carefully at this. If you are --
6 I am planning to vote no. I will
7 say it. If you are driving down
8 Fifth Street and you turn right
9 onto Johnson Place at the corner
10 if you are going fairly -- if you
11 are going probably faster than
12 you should but not all that fast
13 and somebody is walking -- maybe
14 a small person is walking east
15 while you are going west, at that
16 corner where it is a high fence,
17 is part of the side -- the front
18 yard, the legal front yard, the
19 person on the -- it seems to me
20 you cannot see -- the driver
21 going west cannot see the person
22 walking against the traffic
23 coming east. This, to me, is
24 adequate reason for suggesting
25 the fence should not be more than

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2 four feet high. And that is
3 presumably the reason, that is
4 the kind of situation which
5 justifies the reason for having
6 two front yards in a corner lot.
7 That is explaining my vote.

8 MEMBER CORWIN: Let me make
9 a comment on that. Okay. There
10 is a separate section in the code
11 that addresses the site distance
12 on corner lots. It allows you to
13 have maybe 30 inches. I don't
14 remember. Don't hold me to that.
15 30 feet each way on a corner lot,
16 specifically addresses the site
17 line question for automobiles.

18 Then the section we're
19 taking about, in my opinion, was
20 put in there to keep from making
21 Greenport look like a gated
22 community where every house puts
23 up as big a fence as they can.
24 That is kind of my objection to
25 all these fences I am seeing all

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2 around Greenport where there is a
3 6' fence right up to the corner.
4 And it make things look like a
5 gated community.

6 And the last one we were
7 just talking about, the public
8 hearing, where you got an eight
9 or ten foot hedge really adds to
10 that. Right now it is kind of
11 hiding an old New York State --
12 Department of Transportation yard
13 and a barn that was there. But
14 at sometime that is going to be
15 taken -- probably for a housing
16 unit. Then what's going to
17 happen to the hedge there?

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

25 MEMBER NEFF: May I?

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2 CHAIRMAN SALADINO: Ellen.

3 MEMBER NEFF: I have a
4 couple of points of view about
5 this. The specific page of the
6 code that discusses fences and
7 front yards are defined front
8 yards and corners. All of that.
9 I did read it but I don't have it
10 in front of me.

11 I think that what we -- what
12 we have in the case of a village
13 like Greenport that was built --
14 most of it -- way before there
15 was a code, which I believe dates
16 from around 1960. Is that
17 roughly --

18 MS. WINGATE: '71.

19 MEMBER NEFF: '71. Okay.
20 So the built environment is where
21 we -- we have to start with that.
22 We don't start with a code. We
23 start with the built environment.
24 And the people who own their
25 property within that built

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2 environment come to us to try to
3 arbitrate what their desires --
4 to do what they want to do to
5 their property and we introduce
6 the factor -- and the Building
7 Department certainly does -- the
8 factor of public safety and all
9 the other things of why we have
10 codes in the first place.

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

23 CHAIRMAN SALADINO: In a
24 different configuration.

25 MEMBER NEFF: Not

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2 really. If we look at them --
3 certainly here is 2001, 2004,
4 1978. Anyway we have a fence.
5 We also have no sidewalk. In --
6 you know, we have no sidewalk.
7 We have room for persons walking
8 to walk anywhere they want in the
9 park and most people who walk
10 down the street -- they don't
11 have a sidewalk right -- walk to
12 the right. The direction you're
13 going which doesn't put you near
14 a car turning -- I think you said
15 west. I -- I find this
16 discussion errs on the side of
17 talking about the code rather
18 than looking at the situation as
19 it exists and has existed for a
20 long time. That's my point of
21 view.

22 MEMBER GORDON: Can I just
23 respond? I think -- I think the
24 -- I think at least I -- and many
25 people were taught as children to

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2 they are requesting I don't see a
3 negative impact on the health and
4 safety or the environment about
5 this particular fence in this
6 particular place.

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

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

18 MEMBER NEFF: That is my
19 opinion.

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

24 MR. MOORE: Is this closed
25 or is that -- that --

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2 CHAIRMAN SALADINO: We are
3 going to let you -- of course we
4 are going to let you speak. The
5 public hearing is closed. But we
6 are just having a discussion
7 here. If you want to come and --
8 and speak now I mean, that's
9 fine.

10 MR. MOORE: Robert Moore,
11 139 Fifth Street, Greenport, New
12 York. My property is the one
13 that is in question. I've talked
14 to most of you at the last
15 meeting. There is a new member
16 here now.

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

23 In the course of the time
24 that we have lived there I can
25 say we have probably made

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2 complaints to the police
3 department maybe four or five
4 times in 42 years. And one of
5 the things that makes that
6 possible is that six foot fence.
7 We would be on the phone all the
8 time calling the police to come
9 down because this is going on or
10 that's going on. It just gives
11 us a bit of a buffer to help us
12 with our life style.

13 I can remember -- I don't
14 know if I should say this but I
15 am going to say it anyway. At
16 the last meeting a certain member
17 of this board stated that if he
18 lived on that piece of property
19 he would want a ten or 12' fence
20 there. Okay. So I am not asking
21 for a ten or 12 fence. All I am
22 asking for is what has been
23 around that property for 44
24 years, that I know of. And
25 that's all I'm asking for. I

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2 don't know what else -- what else
3 to say other than -- I mean I
4 want to try to work with the
5 board. If you feel like maybe it
6 juts out to far maybe I can move
7 it in. I don't know but I need
8 that 6' fence.

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

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

25 MR. MOORE: Yes.

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2 CHAIRMAN SALADINO: It
3 actually -- I was the one that
4 said I would want a 12' fence if
5 I lived next to the park. I
6 freely admit that. But the
7 problem is I would be -- I would
8 be in your seat now talking to
9 the ZBA. You know we are kind
10 of bound by land use and -- and
11 the code.

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

19 So now instead of the ZBA
20 having 34 applications in front
21 of it for corner fences or -- I
22 am not sure of the exact number,
23 30 or 35 applications in front of
24 it. You know the precedent --
25 the interpretation does set a

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2 precedent in my mind and that
3 will be reflected in my vote.

4 Is the interpretation wrong?
5 You know, the Village Board
6 always has the opportunity to
7 change the code. We don't -- all
8 we do is interpret the code. We
9 don't create the code. So having
10 said that --

11 MS. ALLEN: Can I say
12 something.

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

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

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

22 CHAIRMAN SALADINO: Thank
23 goodness, right.

24 MS. MOORE: Yes, thank
25 goodness. And I think if you

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2 clearly -- I mean --

3 CHAIRMAN SALADINO: Can you

4 --

5 MS. MOORE: Hi. I am Diane

6 Moore. 139 Fifty Street,

7 Greenport. Like my husband said,

8 we have lived there 47 years and

9 my kids grew up at the park and

10 down there. And there has never

11 been even a car accident down

12 there yet. Thank God.

13 I can tell you other stories

14 of what goes on down in that park

15 and in the road that would make

16 your hair curl. We just watched

17 a little boy. He was maybe --

18 maybe five or six. And he was

19 riding a little scooter. And it

20 was run by battery and he scooted

21 all over that park. I mean

22 things go on in that road.

23 And people park on both

24 sides of that street when there

25 are special things going on. And

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2 we never say anything. We say,
3 you know, it is for one day. Go
4 have yourself a good time.

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

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

13 CHAIRMAN SALADINO: Sure.

14 MR. PROKOP: May I make a
15 suggestion?

16 CHAIRMAN SALADINO: Sure.

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

19 CHAIRMAN SALADINO: I have
20 them here.

21 MEMBER GORDON: For the deck
22 or for them both?

23 CHAIRMAN SALADINO: Well, we
24 are going to have to do them one
25 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

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2 what the lot coverage is?

3 CHAIRMAN SALADINO: 35.2.

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

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

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

12 MR. PROKOP: That is a 20.5
13 foot front yard variance and the
14 lot coverage is a 5.2 percent or
15 336 square foot variance.

16 CHAIRMAN SALADINO: So this
17 is section 150-12 (a) requires a
18 one family yard in the R2
19 District to have a maximum lot
20 coverage to 30 percent. The 330
21 square foot deck increases the
22 total building lot to 35.2
23 percent requiring a lot coverage
24 variance of 5.2 percent, 336
25 feet. The existing lot coverage

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2 --

3 MEMBER GORDON: Square feet.

4 CHAIRMAN SALADINO: Square
5 feet. The existing lot coverage
6 is 30.25 percent which includes
7 the existing house and garage.
8 We will go through -- we'll go
9 through the five questions.

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

14 MEMBER CORWIN: Could you
15 read the whole question, please?
16 Whether an undesirable change
17 will be produced in the character
18 of the neighborhood or a
19 detriment to nearby properties
20 will be created by the granting
21 of the area variance?

22 And my answer is no on the
23 deck.

24 CHAIRMAN SALADINO: Ms.
25 Gordon?

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2 MEMBER GORDON: No.

3 CHAIRMAN SALADINO: Ms.

4 Neff?

5 MEMBER NEFF: No.

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

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

15 Mr. Corwin?

16 MEMBER CORWIN: No.

17 CHAIRMAN SALADINO: Ms.

18 Gordon?

19 MEMBER GORDON: No.

20 CHAIRMAN SALADINO: Ms.

21 Neff?

22 MEMBER NEFF: No.

23 CHAIRMAN SALADINO: And I'll
24 vote no.

25 Whether the requested area

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2 variance is substantial? Mr.
3 Corwin?

4 MEMBER CORWIN: Yes.

5 CHAIRMAN SALADINO: Ms.
6 Gordon?

7 MEMBER GORDON: No.

8 CHAIRMAN SALADINO: Ms.
9 Neff?

10 MEMBER NEFF: No.

11 CHAIRMAN SALADINO: And I am
12 going to vote yes.

13 Whether the proposed
14 variance will have an adverse
15 effect or impact on the physical
16 or environmental conditions in
17 the neighborhood or district?

18 Mr. Corwin?

19 MEMBER CORWIN: No.

20 CHAIRMAN SALADINO: Ms.
21 Gordon?

22 MEMBER GORDON: No.

23 CHAIRMAN SALADINO: Ms.
24 Neff?

25 MEMBER NEFF: No.

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

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

11 Mr. Corwin?

12 MEMBER CORWIN: Yes.

13 CHAIRMAN SALADINO: Ms.
14 Gordon?

15 MEMBER GORDON: Yes.

16 CHAIRMAN SALADINO: Ms.
17 Neff?

18 MEMBER NEFF: No.

19 CHAIRMAN SALADINO: And I am
20 going to vote yes.

21 And would you like to make a
22 motion to --

23 MEMBER CORWIN: I make a
24 motion to grant the side yard
25 variance for the property tax map

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2 number -- Suffolk County Tax Map
3 number 1001-7-4-9 for the
4 constructed deck. The variance
5 will be the 9.5 foot variance --
6 or rather the existing distance
7 is 9.5 feet when 30 feet is
8 required for a 20.5 variance.

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

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

22 CHAIRMAN SALADINO: Is there
23 a second?

24 MEMBER NEFF: Second.

25 CHAIRMAN SALADINO: We will

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2 call a roll.

3 Mr. Corwin?

4 MEMBER CORWIN: Yes.

5 CHAIRMAN SALADINO: Ms.

6 Gordon?

7 MEMBER GORDON: Yes.

8 CHAIRMAN SALADINO: Ms.

9 Neff?

10 MEMBER NEFF: Yes.

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

13 MEMBER CORWIN: I will make
14 another variance.

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

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

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

24 CHAIRMAN SALADINO: We are
25 going to do it now.

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2 MEMBER NEFF: Okay.

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

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

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

11 MEMBER CORWIN: Five
12 questions before the motion?

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

15 CHAIRMAN SALADINO: All
16 right, on the question of the
17 fence. The existing 6' high
18 fence is located within the
19 required front yard setback along
20 the south and west property
21 lines. Section 150-13 B (2) of
22 the Village of Greenport code
23 requires that on a corner lot,
24 front yards are required on both
25 street frontages. One yard other

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2 than the front yard shall be
3 deemed to be a rear yard and
4 other or others be to the side
5 yard.

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

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

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

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

25 MEMBER NEFF: Okay.

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2 MR. MOORE: Excuse me, could
3 you repeat that? I didn't quite
4 hear what you said. Could you
5 just repeat that?

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

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

20 MEMBER NEFF: Could I point
21 out that -- you can't -- if you
22 have three front yards you don't
23 have two other yards to designate
24 one rear -- rear and one side.
25 That was a mistake. I do not

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2 recall. We do not have the
3 minutes here present to look them
4 up that Chairman Moore said that.

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

11 MEMBER NEFF: Well, is it a
12 road or is it not a road? I mean
13 --

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

17 MEMBER NEFF: All right.

18 CHAIRMAN SALADINO: All
19 right. On the question. Whether
20 an undesirable change will be
21 produced in the character of the
22 neighborhood or a detriment to
23 nearby properties will be created
24 by the granting of the area
25 variance?

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2 MEMBER NEFF: Are you talking
3 about the fence now?

4 CHAIRMAN SALADINO: Yes.

5 Mr. Corwin?

6 MEMBER CORWIN: Yes.

7 CHAIRMAN SALADINO: Ms.
8 Gordon?

9 MEMBER GORDON: Yes.

10 CHAIRMAN SALADINO: Ms.
11 Neff?

12 MEMBER NEFF: No.

13 CHAIRMAN SALADINO: And I
14 will vote yes.

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

20 Mr. Corwin?

21 MEMBER CORWIN: Yes.

22 CHAIRMAN SALADINO: Ms.
23 Gordon?

24 MEMBER GORDON: No.

25 CHAIRMAN SALADINO: Ms.

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2 Gordon?

3 MEMBER GORDON: Yes.

4 CHAIRMAN SALADINO: Ms.

5 Neff?

6 MEMBER NEFF: No.

7 CHAIRMAN SALADINO: And I'll
8 vote yes.

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

12 MEMBER CORWIN: Yes.

13 CHAIRMAN SALADINO: Ms.

14 Gordon?

15 MEMBER GORDON: Yes.

16 CHAIRMAN SALADINO: Ms.

17 Neff?

18 MEMBER NEFF: No.

19 CHAIRMAN SALADINO: And I'll
20 vote yes.

21 Can we get a motion on the
22 variance?

23 MEMBER CORWIN: I'll make
24 the motion, but before I do I
25 just want to say that at the last

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2 meeting I tried to come up with a
3 compromise and say well, 5'.
4 That went nowhere so here we are
5 now.

6 So I will make a motion to
7 the Village Board -- the Zoning
8 Board of Appeals, Village of
9 Greenport approve the existing 6'
10 foot high fence on the side yard
11 at Suffolk County Tax Map
12 1001-7-4-9.

13 CHAIRMAN SALADINO: Is there
14 a second?

15 MEMBER GORDON: Second.

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

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

22 MEMBER NEFF: All right.

23 CHAIRMAN SALADINO: There
24 was a second?

25 MEMBER GORDON: Yes. I

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2 second.

3 CHAIRMAN SALADINO: Mr.

4 Corwin?

5 MEMBER CORWIN: No.

6 CHAIRMAN SALADINO: Ms.

7 Gordon?

8 MEMBER GORDON: No.

9 CHAIRMAN SALADINO: Ms.

10 Neff?

11 MEMBER NEFF: Yes.

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

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

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

24 MR. PROKOP: So the first
25 two variances that had to do with

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2 the deck?

3 CHAIRMAN SALADINO: And the
4 lot coverage.

5 MR. PROKOP: The front yard
6 setback and lot coverage passed.
7 And the variance that had to do
8 with the fence was denied.

9 CHAIRMAN SALADINO: The as
10 built deck and lot coverage
11 passed.

12 Next on the agenda is -- is
13 discussion and possible action on
14 an area variance for Carlos
15 Saavedra and Nicole Eckstrom,
16 Greenport, New York. Suffolk
17 County Tax Map 1001-7-4-9. The
18 property is located in the R-2
19 district and not located in the
20 Historic District.

21 MEMBER CORWIN: Wait a
22 minute I have 28.9 and you said
23 .9.

24 MR. SWISKEY: The tax map
25 number is wrong.

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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

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2 to make one note that that hedge
3 that is there on the property
4 next door is about eight feet
5 high. That's kind of a gray area
6 because it is in effect a fence
7 but because Mr. Koppel
8 (phonetic), when he was mayor,
9 tried to include hedges as fences
10 and he caught a lot of heat for
11 that, that he never pursued that
12 to try to include hedges as
13 fences.

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

25 CHAIRMAN SALADINO: I am

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2 going to raise the same issue as
3 I did with Mr. Moore's fence. I
4 mean we have an interpretation,
5 whether we like it or not, we are
6 stuck with it. I personally
7 believe it carries the weight of
8 precedent. That down the line
9 we're going to have to follow
10 that interpretation. Again, some
11 of my colleagues don't agree.

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

21 MR. SAAVEDRA: An
22 alternative to replacing the
23 fence?

24 CHAIRMAN SALADINO: Or a
25 portion of it. Yeah.

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2 MR. SAAVEDRA: I honestly
3 don't have an alternative for the
4 existing fence. I don't know.
5 Sorry.

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

12 MR. SAAVEDRA: The existing
13 fence was fairly expensive.

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

24 What is the pleasure of the
25 board? Are we going to go

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2 through these five questions?

3 MEMBER NEFF: I would like
4 to point out again to begin by
5 looking at the location -- or the
6 placement of the house on the
7 property. You once again see
8 that it already has two front
9 yards. The house isn't 30 feet
10 away from the Fifth Avenue side.
11 It -- it is in fact -- one part
12 of it is -- it looks like
13 thirteen or fourteen feet. This
14 fence is also -- on the other
15 side of the fence there is a
16 property --

17 CHAIRMAN SALADINO: Hold on.

18 MEMBER NEFF: Okay.

19 CHAIRMAN SALADINO: Okay.

20 MEMBER NEFF: -- is -- there
21 is a structure on that property
22 which is nowhere near this fence.
23 At some point in time the new
24 owner may not buy that structure
25 or build another structure but --

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2 and under those circumstances
3 what the code requires will keep
4 a spacing between this property
5 and the adjoining property.

6 Since -- this fence -- and I
7 want to commend -- I think it is
8 the village or whoever got the
9 hedges in this location and other
10 places in the village -- they
11 were crowding the sidewalks, to
12 go back to the property line, is
13 incredibly significant for the
14 health and safety and -- in the
15 village.

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

25 CHAIRMAN SALADINO: I'm -- I

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2 MEMBER NEFF: 28.1

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

8 CHAIRMAN SALADINO: Is there
9 a second?

10 MEMBER GORDON: Second.

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

13 MEMBER CORWIN: Yes.

14 CHAIRMAN SALADINO: Ms.
15 Gordon?

16 MEMBER GORDON: Yes.

17 CHAIRMAN SALADINO: Ms.
18 Neff?

19 MEMBER NEFF: Yes.

20 CHAIRMAN SALADINO: And I'll
21 vote yes.

22 On the question of variance,
23 number one is: Whether an
24 undesirable change will be
25 produced in the character of the

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2 neighborhood or detriment to
3 nearby properties will be created
4 by the granting of the area
5 variance?

6 Mr. Corwin?

7 MEMBER CORWIN: Yes.

8 CHAIRMAN SALADINO: Ms.

9 Gordon?

10 MEMBER GORDON: No.

11 CHAIRMAN SALADINO: Ms.

12 Neff?

13 MEMBER NEFF: No.

14 CHAIRMAN SALADINO: And I am
15 going to vote no.

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

18 CHAIRMAN SALADINO: I voted
19 no.

20 Whether the benefit --
21 whether the benefit sought by the
22 applicant can be achieved by some
23 method feasible for the applicant
24 to pursue other than an area
25 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

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2 variance will have an adverse
3 effect or impact on the physical
4 or environmental conditions in
5 the neighborhood or district?

6 Mr. Corwin?

7 MEMBER CORWIN: No.

8 CHAIRMAN SALADINO: Ms.

9 Gordon?

10 MEMBER GORDON: No.

11 CHAIRMAN SALADINO: Ms.

12 Neff?

13 MEMBER NEFF: No.

14 CHAIRMAN SALADINO: And I'll
15 vote no.

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

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

20 MS. WINGATE: And the last
21 one?

22 CHAIRMAN SALADINO: No.

23 Whether the alleged
24 difficulty was self-created?

25 Mr. Corwin?

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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.

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2 To the applicant, I'm sorry.

3 A two-two tie, it fails.

4 The next item is a
5 continuation of public hearing.
6 The continued public hearing on
7 the application of SAKD Holdings,
8 LLC. Daniel Pennessi, President.
9 The property is located on the
10 southeast corner of Front and
11 Third Street, Greenport, New
12 York. Suffolk County Tax Map
13 1001-5-4-5.

14 The applicant proposes to
15 construct a new, mixed use,
16 three-story building, having an
17 80 seat restaurant, and 715
18 square feet of retail use, on the
19 ground floor and hotel uses for
20 16 units on the second and third
21 floors, as well as a roof deck.

22 The proposed uses are
23 conditional uses under Greenport
24 Village Code Sections 150-11(b)
25 (1), (2) and (3). The property

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2 is located in the Waterfront
3 Commercial District. The
4 property is not located in the
5 Greenport Village Historic
6 District.

7 Is the applicant here?

8 MS. WINGATE: He did call
9 earlier and said he was en route
10 but he felt that because he
11 wasn't the first on the agenda
12 that he would be here by the time
13 you called this.

14 CHAIRMAN SALADINO: At this
15 -- what we had planned to do was
16 ask the applicant for an
17 indulgence. I will explain to
18 the public.

19 Normally interpretations
20 have their own separate hearing,
21 public hearing. We would have
22 had a public hearing for the
23 interpretations. We would have
24 had a public hearing for whatever
25 variances came out of that first

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2 public hearing. These two
3 hearings were combined.

4 So what this board has to do
5 is rule on the interpretations
6 first and then whatever comes
7 from that will determine what
8 variances are needed. We had a
9 question for the applicant
10 because its been suggested -- its
11 been suggested that once we rule
12 on the interpretations the 62 day
13 clock would start.

14 We would like to ask the
15 applicant to agree to let us rule
16 on the interpretation and then
17 continue the public hearing,
18 allow the public to continue to
19 speak at the public hearing,
20 eventually close the public
21 hearing and at that point the
22 time would start, the 62 day
23 clock would start.

24 The applicant not being here
25 I have a couple of letters. Do

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2 we have any more letters? Do you
3 have any comments from anybody?

4 MS. WINGATE: No.

5 CHAIRMAN SALADINO: I have a
6 letter from Debra Rivera that she
7 had wanted read into the record.

8 This is from Debra Rivera. Do we
9 have an address for her? For
10 those who don't know, she owns
11 the Greenporter Hotel. I guess
12 we will use that as the address.

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

20 Over the years I have seen
21 the plans of other business
22 owners come to halt over the size
23 of placement of windows, lack of
24 parking and neon lighting. If we
25 grant variances for development

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2 that exceeds what a business can
3 house without infringing on the
4 property of our public citizens
5 we are entering into territory
6 that far exceeds issues of window
7 dressing and mood lighting.

8 At the Greenporter we have
9 35 parking spaces for 30 guest
10 rooms on one acre of land. As a
11 result our front desk spends part
12 of the day asking non-guests to
13 remove their vehicles from
14 parking lot -- from the parking
15 lot. We understand their
16 frustration in that they cannot
17 park -- cannot find parking
18 anywhere downtown and try to use
19 our lot as filler for municipal
20 parking. A project with 16 guest
21 rooms and an 80 seat restaurant
22 would deplete the already dire
23 parking situation in our village.

24 Secondly, if we grant
25 variances for setbacks and a

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2 third floor I can assure you that
3 other hotel owners will also want
4 to start building rooms on their
5 parking lots in order to remain
6 competitive and would have to
7 include myself in that equation.

8 Granting these variances
9 will open a can of worms from
10 which we will never recover. The
11 traffic will become even more
12 unbearable and the quality of
13 life for the residents will
14 certainly be further compromised.
15 We need to resolve our parking
16 issues and treating all
17 businesses equally in granting
18 any further variances.

19 Thank you. Debra Rivera
20 Pittarino, Greenporter Hotel.

21 I have a couple of comments
22 from -- from Doug Moore. In the
23 interest of full disclosure, Doug
24 Moore is the Chairman of the ZBA.
25 He -- he asked me to make these

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2 comments. I think I'm going to
3 reserve them until the applicant
4 comes, so he can hear them. And
5 I think we have a copy of this
6 for the applicant, so he can read
7 them. The public hearing is
8 still open.

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

12 MEMBER GORDON: Can we not
13 discuss the interpretations
14 before we reopen the public
15 hearing.

16 MEMBER NEFF: I have a
17 suggestion.

18 CHAIRMAN SALADINO: We -- we
19 can open the public -- the public
20 hearing is open. It was just
21 adjourned until tonight. The
22 public hearing is open. We can
23 hear from the public without
24 deciding -- the procedure would
25 have been to let the public

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2 comment on the interpretations.

3 At that point after the applicant
4 had explained his position, after
5 the municipality -- after the
6 village -- explained her position
7 we then would have let the public
8 speak and we would have made our
9 interpretations.

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

24 MEMBER CORWIN: My
25 preference would be to move ahead

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2 and discuss the interpretations.

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

9 CHAIRMAN SALADINO: David --
10 David, in all fairness to the
11 applicant, I believe he lives in
12 Mount Kisco.

13 AUDIENCE MEMBER: Aww.

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

21 AUDIENCE MEMBER: Excuse me.
22 If I were --

23 CHAIRMAN SALADINO: We are
24 just going to -- I'm not inclined
25 to call him. I -- I think we can

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2 hear from the public on the
3 interpretations and when Mr.
4 Pennessi shows up we can hear his
5 side of the story. And then we
6 can hear from the building
7 inspector. And so I'll ask -- is
8 it in fact we have to reopen --

9 MR. PROKOP: It is not
10 reopening. It is continuing
11 opening. I just want to mention,
12 you know, looking back -- by
13 looking back through the records
14 of the last hearing there wasn't
15 really much put on the record
16 regarding the interpretations. I
17 mean, there was some comments by
18 the applicant but some of the
19 interpretations are based on
20 things like findings that you
21 need to make about the existing
22 of properties in the past and
23 things like that.

24 CHAIRMAN SALADINO: I'm
25 willing to let the public speak

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2 on the interpretations. I would
3 rather we don't get into the
4 variances because we don't know
5 -- we don't know exactly what
6 variances we are going to have.
7 So if a member of the public has
8 a comment on the code itself I
9 would be willing to let them
10 speak.

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

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

22 MR. SWISKEY: William
23 Swiskey, 184 Fifth Street. I
24 really hate to ask this but there
25 has been three errors on this

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2 agenda. I mean it supposedly was
3 checked --

4 CHAIRMAN SALADINO: The
5 interpretations. The
6 interpretations. What do you
7 have to say about the
8 interpretations?

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

15 CHAIRMAN SALADINO: To the
16 best of our knowledge, this is
17 what -- your are more than
18 welcome to go through the -- the
19 -- the agenda and the public
20 notice and compare. To the best
21 of our knowledge they are
22 correct.

23 MS. SWISKEY: All right. I
24 mean because they are reviewed by
25 the lawyer and the Village Clerk

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2 and other people. It is just
3 surprising that there is that
4 many -- anyway.

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

11 CHAIRMAN SALADINO: The
12 existing structure --

13 MR. SWISKEY: The existing
14 lot, if it had a structure it
15 doesn't need parking. It is
16 exempt. It is like -- it is sort
17 of like American Beach was exempt
18 when they put the apartments
19 upstairs. Because of the
20 existing building they didn't
21 have to provide additional
22 parking. And I'm trying to find
23 --

24 CHAIRMAN SALADINO: American
25 Beach never came before the ZBA.

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2 MR. SWISKEY: I understand
3 that.

4 CHAIRMAN SALADINO: So we
5 have no knowledge.

6 MR. SWISKEY: I understand
7 that. There is an interpretation
8 by the building inspector and I
9 want to ask about that
10 interpretation. But the
11 interpretation, I believe, I
12 remember reading it. It says
13 that if there was something on
14 the property basically in 1991,
15 it was improved, it is exempt
16 from parking.

17 Now I know there was a gas
18 station there in 1991 and some
19 people might argue, well, it is
20 no longer there except the code
21 makes no reference if the
22 building has been removed. It
23 only says if it was improved in
24 1991. Now I could be off base
25 with that, but I think than one

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2 could be a little touchy.

3 I'm against this project.

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

17 MEMBER CORWIN: Bill.

18 Before you sit down, Bill.

19 MR. SWISKEY: Yes, David.

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

23 AUDIENCE MEMBER: There was
24 not.

25 MEMBER CORWIN: I don't

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2 believe there was.

3 MR. SWISKEY: I believe
4 there was a structure there. We
5 would have to check the tax
6 records. Has the building
7 inspector checked the tax
8 records? Because -- it would
9 have been -- that was improved
10 property. It would have -- so
11 that is the only land that we can
12 really compare to. Has anybody
13 done that?

14 MEMBER CORWIN: My
15 recollection --

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

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

25 MR. SWISKEY: I understand

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2 that.

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

8 MR. SWISKEY: The one
9 variance --

10 CHAIRMAN SALADINO: For
11 parking or not.

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

16 CHAIRMAN SALADINO:
17 Absolutely. That is always
18 somebody right.

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

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

25 MR. SWISKEY: Of course not.

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2 Why would I? I have no standing.
3 The owner has standing or another
4 person that might want to do
5 something similar in another
6 location --

7 CHAIRMAN SALADINO: Bill, we
8 are not going to do what if
9 questions. We are going to talk
10 about the interpretations. I
11 will let you ask as many
12 questions as you want about
13 interpretations. But we are not
14 going to do what if questions.

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

24 CHAIRMAN SALADINO: I'm going
25 to give you my personal

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2 assurances, Bill, that we are
3 going to take this seriously.
4 We're going to give it as much
5 consideration as it needs. And
6 I'm sure between the four people
7 here tonight, we will come to an
8 informed decision.

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

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

18 CHAIRMAN SALADINO: Excuse
19 me. I'm sorry.

20 MEMBER GORDON: As a factual
21 matter, what was the state of
22 this piece of property on January
23 1, 1991? Do you know?

24 MS. WINGATE. I do not know.

25 MR. PROKOP: That is what I

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2 was talking about before. We
3 really shouldn't do it by
4 people's recollection. At a
5 meeting with -- what we need to
6 do, there is many sources that we
7 can rely on such as aerial
8 photographs. There are places to
9 go aerial photographs at
10 sequential dates and with, you
11 know, the applicant really should
12 be coming up with this. I mean
13 he has got an enormous amount
14 resources at stake. And we -- I
15 mean we may end up doing this but
16 we really to shouldn't. I really
17 caution the board not to go based
18 on people's recollection.

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

22 MR. PROKOP: We really need
23 some kind of evidence filed on
24 the record to make a
25 determination like this.

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2 CHAIRMAN SALADINO: Well, I
3 would ask -- I would ask the
4 attorney, at what point does --
5 the applicant's contention is
6 that once improved, always
7 improved. I -- I -- I take
8 exception to that.

9 MR. PROKOP: To me or to the
10 applicant?

11 CHAIRMAN SALADINO: What?

12 MR. PROKOP: To me or the
13 applicant?

14 CHAIRMAN SALADINO: No. I
15 had asked the application at the
16 last -- at the last -- at the
17 public hearing last month if his
18 contention with this
19 interpretation is that once a
20 property is improved it is always
21 improved. It never becomes
22 unimproved. And his contention
23 was yes. And I disagree. So I
24 would ask you at what point in
25 time -- or I would ask the

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2 building inspector, at what point
3 in time does a property become --
4 how long does it have to lay foul
5 to be unimproved?

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

14 MEMBER GORDON: I have a
15 question. Also, if the -- what
16 is it -- 150-12(c) from which the
17 building inspector read also
18 says at the end, this exemption
19 shall apply thenceforth to
20 improved parcels only and shall
21 not apply to unimproved parcels,
22 notwithstanding other provision
23 to the contrary. And there is
24 another provision which the
25 applicant sites, which is 150-16A

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2 (1) which says, land within the
3 CR and WC districts which is
4 improved as of January 1, 1991
5 shall be entirely exempt from
6 off-street parking requirements
7 and from payments in lieu
8 thereof.

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

23 MR. PROKOP: So 150-12 A (1)
24 has a requirement. 150-12 C has
25 an exemption.

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2 MEMBER GORDON: Right.

3 MR. PROKOP: The exemption is
4 for use application or change of
5 use of any building within the CR
6 and WC districts in existence as
7 of January 1, 1991 shall be
8 entirely exempt, etcetera. But
9 then it says this exemption shall
10 apply to improved parcels only
11 and shall not apply to unimproved
12 parcels. Which would seem pretty
13 clear to me.

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

23 MR. PROKOP: Right. That is
24 another way of looking at it. I
25 agree.

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2 CHAIRMAN SALADINO: So, I
3 mean if there is no building,
4 there can be no exemption.

5 MEMBER GORDON: Except --
6 then on 150-16, it has this
7 provision that applies to land.
8 Now maybe we don't have to
9 consider that provision. Because
10 -- because of this phrase in 12
11 -- 150-129(c) which says
12 notwithstanding other provisions
13 to the contrary. But it seems to
14 me, unless you consider that this
15 is unimproved land that this
16 provision, 150-16 does apply.

17 CHAIRMAN SALADINO: My
18 suggestion right now is the
19 applicant is here. We're going
20 to let -- if he would, Mr.
21 Pennessi -- we explained to the
22 public before that we have a
23 little dilemma. We would ask you
24 -- we would ask you -- we would
25 like to do the interpretations

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2 tonight. We would like to keep
3 the public hearing open. We
4 would like to do the
5 interpretations tonight but if
6 you would agree we don't start
7 the 62 day clock. We would just
8 like to get the interpretations
9 out of the way. We would like
10 you to speak. Be responded to by
11 the building inspector. Have our
12 discussion and perhaps come to a
13 decision about the
14 interpretations.

15 So I would ask you now is
16 that agreeable to you?

17 MR. PENNESSI: Yes.

18 CHAIRMAN SALADINO: I am
19 going to ask the attorney is
20 there something else I should be
21 asking to protect the applicant
22 and to protect the village as far
23 as --

24 MR. PROKOP: No, that's -- I
25 think were okay. You should ask

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2 the applicant to agree to a
3 separate determination with the
4 -- with regard to the
5 interpretations prior to the
6 interpretations -- excuse me.
7 Prior to the decision on the
8 variances. Without considering a
9 end -- or interruption of the
10 public hearing.

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

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

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

24 CHAIRMAN SALADINO: Sure.

25 MR. PENNESSI: Daniel

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2 Pennessi. 60 Parkway Road,

3 Bronxville, New York.

4 So we listened to the
5 comments and we went back and
6 reviewed a couple of the public
7 records and some of the due
8 diligence that was performed on
9 the property before we first
10 appeared before the Planning
11 Board. And that diligence, it
12 reflected a couple of things that
13 we are talking about here that
14 are relevant to some of these
15 variances or some of the
16 interpretations that we are
17 looking for from the ZBA.

18 The first is the LLRP from
19 January 2014, which has not yet
20 been adopted, specifically
21 identified this property, even by
22 picture suggesting that it would
23 be incorporated into a separate
24 designation that might allow for
25 a mixed use concept on the first

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2 floor, use as identified
3 currently in the waterfront
4 commercial district which
5 includes retail and restaurant
6 and residential on the upper
7 floor. I would just like to
8 point that out because there had
9 been some village wide planning
10 done at the time that identified
11 a use very similar to the
12 building that is being proposed
13 here for that specific property.

14 I also would like to point
15 out as part of our environmental
16 review of the property that in
17 1882 this property was improved
18 by the Peconic Hotel and has
19 since over time been improved by
20 a service station and has housed
21 a carousel for a certain period
22 of time and then a storage area
23 for the village until it became
24 vacant. So I just wanted to
25 point those things out. It is

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2 important -- and you guys were
3 talking about it when I arrived.
4 That specifically the applicant's
5 contention is that according to
6 150-16(a) (1) there is no
7 off-street parking requirement.
8 This is not a variance that we
9 are looking for. There is no
10 parking -- no off-street parking
11 required for this parcel because
12 it was improved as of January 1,
13 1991, to be very clear.

14 The other thing I would like
15 to say in response to some of the
16 comments, we have looked at the
17 plans -- and for example, the
18 setbacks -- there are things we
19 can do to reduce the setbacks to
20 add a loading area for certain
21 periods of time on the parking --
22 proposed parking area. By
23 reducing the setbacks, in our
24 opinion it detracts from the look
25 of the hotel, of the aesthetics

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2 of the hotel. But we could do
3 those things. It very much
4 limits the coverage that we would
5 exceed. It may even then conform
6 to the 40 percent lot coverage.

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

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

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2 interpretation the lot coverage.

3 Didn't you withdraw that?

4 MR. PENNESSI: I withdrew
5 the contention that the building
6 conformed to a lot coverage and
7 that we would in fact, have to
8 proceed with obtaining the
9 variance. But what I'm saying is
10 that based upon additional
11 discussions with the building
12 department and some of the
13 comments that were made at the
14 last public hearing is that we
15 can reduce the variances being
16 sought. We can eliminate certain
17 aspects of the building that
18 detract from the aesthetics of it
19 but will eliminate the variances.

20 Let's take for example
21 the setbacks. We can eliminate
22 the raised patio along Front
23 Street. We can eliminate the
24 trellis there. We can push the
25 steps at the corner of Front and

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2 Third back into the building. We
3 can eliminate the trellis along
4 Third Street. The building
5 doesn't look as nice but if that
6 is something the village wants to
7 do, we can do that. And by doing
8 that we are very close to not
9 even needing a variance for lot
10 coverage. We can get very, very
11 close to the 40 percent. I still
12 need to confirm that with the
13 architect, who couldn't be here
14 today. But we could do that.

15 That would not eliminate the
16 need for a height variance. The
17 way the building is built and
18 because of new construction
19 building codes and ABA
20 requirements, that bulkhead would
21 be required -- if the height
22 variance is not granted you can
23 -- you would still need a
24 bulkhead for the stairwell and
25 the elevator. And it will

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2 eliminate an entire floor of the
3 building.

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

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

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

21 MR. PENNESSI: Correct. We
22 need a height variance for a
23 three story building, but in
24 addition, if that is granted we
25 are seeking height variances

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2 aspects of the rooftop.

3 MR. PROKOP: You don't want
4 to include certain things in the
5 height. You don't -- the top of
6 the improvement is 47 feet, but
7 you said you don't want us to
8 include the top 12 feet because
9 -- in that calculation because
10 there are parapets and things
11 like that, right?

12 MR. PENNESSI: Yeah.

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

22 MR. PENNESSI: Agreed.

23 MR. PROKOP: Okay.

24 MR. PENNESSI: If the board
25 agrees to a three story building,

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2 in addition to that three story
3 building there will just be the
4 need for certain variances for
5 rooftop access. We wouldn't be
6 asking for a 47 foot clear height
7 variance. It would be for up to
8 47 feet for the elevator
9 stairwell bulkhead. There is
10 some parts south of the 47 feet
11 for a trellis for the rooftop.
12 Somewhere south of that for
13 rooftop equipment that would keep
14 the parapet.

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

21 MR. PENNESSI: I spoke with
22 the architect before I got here
23 and within the last couple of
24 weeks to figure that out. His
25 opinion is that there wouldn't be

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2 a need for a stairwell bulkhead
3 to get up onto the roof in
4 addition to a three story
5 building. If the village wasn't
6 going to approve the variance for
7 a three story building, it would
8 effectively eliminate the third
9 floor.

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

12 CHAIRMAN SALADINO: Would --
13 would you like to address the
14 interpretations now so we can
15 hear --

16 MR. PENNESSI: If the board
17 would like to we certainly can.
18 I would like to know if the board
19 would first like to make a
20 decision on whether it would
21 prefer that we eliminate some of
22 these variances that are being
23 requested so that we could focus
24 on the remaining two which is the
25 parking.

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2 CHAIRMAN SALADINO: No. I
3 think the board would rather deal
4 with the interpretations and then
5 deal with the variances en mass
6 and we can eliminate the
7 variances or enforce as we go.

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

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

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

24 MEMBER GORDON: Could I go
25 back, before we get too far away

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2 shows what is on besides the
3 deck, the mechanicals, if I can
4 call them that.

5 MR. PENNESSI: Yes.

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

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

15 MEMBER GORDON: Yes.

16 MR. PENNESSI: The height of
17 the flat roof that you if you
18 were to walk up the steps and
19 step out of the stairwell is
20 32'9". The height of the top of
21 the parapet wall, which is an
22 interpretation, that we are going
23 to be talking about, where the
24 height is measured to is 35 feet.
25 The top of the safety fence that

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2 is located around the roof deck
3 is 36'11". No. I'm sorry.
4 36'9". The height for the
5 mechanical equipment for the
6 restaurant and retail uses is
7 36'11". There is a proposed
8 trellis over the proposed roof
9 deck, which is at a height of
10 42'9". And the top of the
11 bulkhead or the shaft for the
12 elevator and stairwell is 46'8".

13 MEMBER GORDON: Thank you
14 for clarifying.

15 MR. PENNESSI: So only,
16 specifically, the variances that
17 we would be looking for -- for a
18 height exceeding 35 feet would be
19 only for those components and
20 would not be for, for example,
21 additional hotel rooms. They
22 would only be for the components
23 that are listed in the
24 application.

25 MEMBER GORDON: Thank you

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2 for clarifying.

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

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

14 MR. PENNESSI: No. I just
15 wanted to be clear that the
16 height variance that we were
17 looking for is not a 47 foot
18 clear height variance for the
19 building. That is not what is
20 being sought from the ZBA. The
21 variances -- the height variances
22 being sought from the ZBA are
23 what I just described
24 specifically. With 46'8" we
25 wouldn't be able to build a

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2 fourth story, for example.

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

6 CHAIRMAN SALADINO: Well,
7 we're going to hear from the --
8 the applicant made his claim.
9 And we're going to -- if he is
10 done addressing the
11 interpretations we will hear from
12 the building inspector as to her
13 reasoning and perhaps the
14 attorney.

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

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

23 MEMBER GORDON: Listen, I
24 want to point out, we have got
25 fifteen minutes left. We got

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2 other things we need to do. I
3 would like to ask you Mr.
4 Chairman to read the e-mail you
5 got for Mr. Pennessi and Chairman
6 Moore's letter that you were
7 going to read after Mr. Pennessi
8 got here. By the time you do
9 that and we do the other stuff we
10 are going to be thrown out of
11 here.

12 CHAIRMAN SALADINO: I am
13 going to suggest that perhaps at
14 7:00 we could speak to the fire
15 wardens and ask their indulgence
16 to keep the room for a little
17 longer.

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

21 MEMBER GORDON: They can
22 wait a half an hour.

23 CHAIRMAN SALADINO: I don't
24 think it is unreasonable to ask
25 them to wait a half an hour.

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2 MEMBER GORDON: I agree.

3 MEMBER NEFF: Or ask if them
4 if they can --

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

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

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

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

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

22 Mr. Corwin -- we have some
23 comments from -- from the
24 Chairman of the ZBA. He is not
25 here and he sent them. Mr.

1 Regular Meeting March 16, 2016

2 Corwin, suggested that we read
3 them to you. I guess if it -- if
4 it pleases the board, I will do
5 that. I kind of think we are
6 just taking up a little more time
7 with that.

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

12 CHAIRMAN SALADINO: I
13 believe we did. I believe we all
14 did, yes.

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

18 MR. PENNESSI: No. 2016.

19 MEMBER NEFF: There is a new
20 one?

21 MR. PENNESSI: Yes.

22 MEMBER GORDON: I did not
23 receive it.

24 MS. WINGATE: They were all
25 in your boxes.

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2 off-street parking requirements
3 that is provided in this or in
4 any other article. This comment
5 is, the above reference is use
6 adaptation or change of use of
7 currently existing buildings
8 which were present in 1991. If
9 the building is to be used or
10 adapted in the present it must
11 have been in existence since
12 1991. If there is no building
13 present there can be no
14 exemption. The code refers to
15 the building and not should imply
16 that past history then carries to
17 the lot.

18 With a note, the exception
19 was created by the Village Board
20 of Trustees to relieve existing
21 buildings in the business
22 district which had little or no
23 parking available. The then
24 existing parking requirements
25 would have prevented any new uses

1 Regular Meeting March 16, 2016

2 paying a bounty, section
3 150-16(g) the planning board may,
4 when it deems to be in the best
5 interests of the village, require
6 an owner to deposit a cash
7 payment in lieu of any parking
8 requirements set forth in this
9 section or 150-12, but not to
10 exceed a waiver of more than 20
11 required parking spaces. The
12 amount to be paid is \$2500 per
13 parking space required but not
14 provided. Said funds will be
15 deposited with the village board
16 and maintained by the village
17 board in a special fund and used
18 by the board for the
19 construction, acquisition or
20 maintenance of public parking
21 facilities.

22 Any decision of the planning
23 board pursuant to this section
24 may be appealed to the village
25 board within 60 days of the

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2 filing of the planning board
3 application.

4 And his comment is: the
5 section provides a waiver of up
6 to 20 spaces at the discretion of
7 the planning board if it is
8 determined to be in the best
9 interests of the Village of
10 Greenport. The allowance may be
11 appealed to the Village Board of
12 Trustees. This allowance
13 principally benefits the
14 applicant and may not be in the
15 best interests of the village.

16 The allowance has yet to be
17 granted by the planning board and
18 may not apply to the ZBA's
19 current deliberation for a
20 variance of 24 spaces.

21 Regardless, the applicant has not
22 shown any alternatives to satisfy
23 the parking requirement and still
24 would be short of the required
25 number, even if 20 spaces were

1 Regular Meeting March 16, 2016

2 allowed through the waiver.

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

5 MR. PENNESSI: Thank you.

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

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

20 MR. PROKOP: There are
21 definitions that we can rely on.
22 I wanted to mention to to the
23 board something that occurred to
24 me in discussion that I spoke to
25 the building inspector about.

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2 This decision already came before
3 this board several years ago in
4 another project. At that time we
5 determined that the parking --
6 there was not an exemption of the
7 parking requirement that was
8 available. So I think that that
9 prior decision is binding on this
10 board. We don't have any basis
11 to change that prior decision.

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

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

16 MR. PENNESSI: Because there
17 is a resolution dated March 20,
18 2002 for the Harbor Front Inn.
19 They went to the ZBA to determine
20 the property which the Harbor
21 Front Inn was exempted from
22 off-street parking requirement
23 pursuant to section 150-16 of the
24 village code.

25 MR. PROKOP: Right, but what

1 Regular Meeting March 16, 2016

2 we are talking about --

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

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

14 MR. PROKOP: What you are
15 proposing was already proposed.
16 I think it was like in 2005 and
17 2006 and at that time this board
18 determined that the parking
19 exemption did not apply and I
20 think were are bound by that
21 decision.

22 MR. PENNESSI: If somebody
23 could send me that decision
24 because we had FOILED for all
25 such resolutions related to

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2 exemptions and did not receive
3 that resolution.

4 MS. WINGATE: Sure.

5 MR. PENNESSI: That was
6 2005?

7 MEMBER NEFF: I think that
8 was 2008.

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

11 MEMBER CORWIN: I'm sorry.
12 I am sorry for interrupting
13 everybody. We are not going to
14 be able to finish this tonight.
15 I'll tell you that right now.
16 The wardens signaled they want
17 the room at 7:00.

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

25 MR. SWISKEY: How about we

1 Regular Meeting March 16, 2016

2 move the April meeting.

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

7 There is a motion on the
8 table.

9 MEMBER NEFF: Second.

10 MR. PENNESSI: May I make a
11 request?

12 CHAIRMAN SALADINO: Sure.

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

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

21 MEMBER CORWIN: We can't do
22 that.

23 CHAIRMAN SALADINO: I think
24 that this is something that was
25 foreseen. I think one or two

1 Regular Meeting March 16, 2016

2 organizations are perhaps being
3 territorial.

4 MEMBER NEFF: Maybe --

5 MEMBER CORWIN: There is a
6 motion on the table.

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

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

15 CHAIRMAN SALADINO: To April
16 20th.

17 All in favor?

18 MEMBER CORWIN: Aye.

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

24 CHAIRMAN SALADINO: What
25 could that alternative possibly

1 Regular Meeting March 16, 2016

2 be?

3 MEMBER NEFF: The exempt
4 fire building? No.

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

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

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

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

16 MEMBER CORWIN: No.

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

20 CHAIRMAN SALADINO: I'll
21 call the roll.

22 David?

23 MEMBER CORWIN: Yes.

24 CHAIRMAN SALADINO: Ms.
25 Gordon?

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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

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2 have a problem with moving the
3 date or the time. The Chairman
4 will be back next month. I think
5 he should have some input. I
6 think by resolution this meeting
7 is on the third Wednesday. I
8 think it is up to the village
9 board to change the meeting date.
10 I don't think we have that
11 latitude. They asked for
12 suggestions. So we can certainly
13 make that suggestion to them.
14 This Tuesday, the third Tuesday?

15 MEMBER GORDON: Well, with
16 regard to the next meeting, April
17 19, I am giving a talk at Peconic
18 Landing. It would be very hard
19 to do the -- whatever it is, the
20 third Tuesday.

21 CHAIRMAN SALADINO: At this
22 point we don't have the latitude
23 to change the meeting. The only
24 latitude this board has is to --
25 is to perhaps change the meeting

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2 place. You know, I don't know --
3 I don't know what our
4 alternatives are beyond that.
5 The meeting is set by resolution.
6 The village board is the one that
7 changes the date. We change the
8 time. We can suggest to them to
9 move this forward right now that
10 perhaps an alternate location,
11 that is the schoolhouse. If you
12 would like to do that, we can do
13 that. People have complained to
14 me about the schoolhouse. There
15 is not enough room. They feel
16 claustrophobic.

17 CHAIRMAN SALADINO: Guys.
18 Guys. Can you just keep it --
19 she can't hear. I'm sorry.

20 MEMBER NEFF: Chairman, I
21 would like to suggest we stick to
22 the day, the 20th, the third
23 Wednesday and that we request
24 public -- the schoolhouse, the
25 building on Front Street.

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2 MEMBER CORWIN: I am opposed
3 to the schoolhouse for the
4 meeting because in the summer
5 there is just no parking and a
6 lot of commotion. I think it
7 should be in the firehouse. I
8 would like to start at 6:00 or
9 7:00. And I still would like the
10 third Tuesday.

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

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

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

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

25 CHAIRMAN SALADINO: No.

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2 Because the problem is we don't
3 know -- the last time we did that
4 there was a conflict with another
5 organization. They were nice
6 enough to acquiesce. We don't
7 know who is there. We don't have
8 the calendar. I am going to make
9 it that the meeting is here next
10 April 20th. The meeting is here
11 at 5:00 p.m. We will try to work
12 something out with the fire
13 department. If not we will come
14 up with an alternate location to
15 be announced at the public
16 hearing. Right now you are
17 asking for something we don't
18 have the power to give. The
19 meeting doesn't have to be
20 Noticed until --

21 MS. WINGATE: Ten days
22 before.

23 CHAIRMAN SALADINO: Ten days
24 before.

25 MEMBER CORWIN: I make a

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Regular Meeting March 16, 2016

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

1 Regular Meeting March 16, 2016

2 that was the intention.

3 MEMBER CORWIN: There is a
4 motion on the table.

5 CHAIRMAN SALADINO: We did.

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

10 MEMBER NEFF: And I seconded
11 it, the motion.

12 CHAIRMAN SALADINO: All in
13 favor?

14 MEMBER CORWIN: Aye.

15 MEMBER GORDON: Aye.

16 MEMBER NEFF: Aye.

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

25 MEMBER GORDON: I think

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2 there should be more than one
3 notice than one meeting, one
4 month. I had to miss a meeting
5 which distresses me and I would
6 have to miss the April meeting
7 because I'm giving a speech at a
8 local institution.

9 MEMBER CORWIN: So your
10 answer is no.

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

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

20 MEMBER GORDON: Fine.

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

24 MEMBER NEFF: I think what
25 we will be doing is making a

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2 suggestion that all parties work
3 on finding a better time and
4 place, but change it to Tuesday
5 that doesn't fit in my plan of
6 how my month goes. I think we
7 need more information.

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

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

17 MEMBER CORWIN: Second.

18 CHAIRMAN SALADINO: All in
19 favor?

20 MEMBER CORWIN: Aye.

21 MEMBER GORDON: Aye.

22 MEMBER NEFF: Aye.

23 (Record closed: 7:07 p.m.)
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Regular Meeting March 16, 2016

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 here
unto set my hand.

Barbara D. Schultz