VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK

ZONING BOARD OF APPEALS
REGULAR SESSION

Third Street Firehouse
Greenport, New York

October 16, 2018
6:05 p.m.

BEFORE:
JOHN SALADINO - CHAIRMAN
DAVID CORWIN - MEMBER
ELLEN NEFF - MEMBER
DINI GORDON - MEMBER
ARTHUR TASKER - MEMBER
ROBERT CONNOLLY - ATTORNEY
KRISTINA LINGG - BUILDING CLERK
CHAIRMAN SALADINO: Folks, this is the Village of Greenport Zoning Board of Appeals Regular Meeting.

Item number 1 is motion to accept the minutes of the September 18, 2018 Zoning Board of Appeals meeting.

So moved.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. CORWIN: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I vote aye.

Item number 2 is motion to approve the minutes of the August 21, 2018 Zoning Board of Appeals meeting.

So moved.

MR. TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MS. GORDON: Aye.

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.
CHAIRMAN SALADINO: And I'll vote aye.

Any abstentions?

MR. CORWIN: Abstain.

CHAIRMAN SALADINO: Item number 3 is motion to schedule the next Zoning Board of Appeals meeting for Tuesday, November 20, 2018 at 6:00 p.m. at the Third Street Fire Station, Greenport, New York.

So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Item number 4 is 416 South Street.

It's a motion to accept the findings and determinations in the matter of the application of Laura Dicapua for the property located at 416 South Street, Greenport, New York 11944.

Suffolk County Tax Map number is 1001-4-5-12.
ZBA - October 16, 2018

The findings that we have have a couple of minor mistakes. I thought we could correct them here.

Arthur, do you have those numbers?

MR. TASKER: The page numbers I gave you?

CHAIRMAN SALADINO: Not the page numbers, the numbers for the --

MR. TASKER: I think I can find them in the -- bear with me just a minute, please.

Here is what we addressed, what we discussed with the applicant and what we, I believe, intended to do with respect to the variances; and they affected only the side yards because they had resolved the front yard question with regard to the staircase.

What we had determined to do was to permit a side yard variance, but less of a variance; that is a greater side yard requirement than what the applicant originally asked for.

It resolved itself as follows: That the proposed side yard setback, and I'm reading from the notice of disapproval dated
May 14, 2018, and in that notice of
disapproval, what was proposed was, the
proposed side yard setback is two feet,
requiring an area variance of eight feet.
We agreed collectively amongst ourselves and
the applicant concurred to grant the
proposed side yard setback of four feet,
requiring an area variance of six feet.

Similarly, the combined side yard
setback was proposed to be five point five
feet, requiring an area variance of nineteen
point five feet, by reducing, I'm sorry, by
increasing the setback two feet on the east
side, the combined side yard setbacks that
we concurred with ourselves and with the
applicant was the combined side yard setback
is seven point five feet, requiring an area
variance of seventeen point five feet.

So just to recap, it moved,
essentially, the pillars of the portico
share of the west side two feet closer to
the house, giving two additional feet
setback.

CHAIRMAN SALADINO: Okay.
Would the members be comfortable on voting on this tonight with these corrections and then we can --

MR. TASKER: Yeah, we would vote with those corrections to be inserted, right?

CHAIRMAN SALADINO: Right.

MR. TASKER: Okay.

CHAIRMAN SALADINO: All right.

So I'll make a motion that, make this motion to accept the findings and determination with the corrections in the matter of the application of Laura Dicapua for the property located at 416 South Street, Greenport, New York.

So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Item number 5 is the discussion and possible motion on the area variances sought
by James Olinkiewicz for the property located at 412 Third Street, Greenport, New York 11944.

Suffolk County Tax Map number is 1001-4-2-4.6.

What I thought we would do because there is some interest generated with this application, perhaps we should limit our discussion to each of the five questions, and then we'll discuss the application as it relates to those five questions, and then we can actually recite the five questions and vote on them individually.

Is that agreeable?

MS. NEFF: Discussing the five questions, I understand that, but not vote on them through our first go-through.

CHAIRMAN SALADINO: Well, we want to create a record. We want to create a narrative for the applicant and for the Village. This way, there's a complete record, there's reasoning behind our either -- behind our reasoning, our logic and --
MS. NEFF: Okay.

MR. TASKER: That's it.

CHAIRMAN SALADINO: So the first question, the first area we should be talking about whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance.

MS. NEFF: Mr. Chairman, are we talking about all the area variances?

CHAIRMAN SALADINO: Well, we could separate it by lot 1 and lot 2, and then if the Board decides, we could vote each variance individually or we could take them collectively.

MS. GORDON: The trouble with, I think, with doing it by lot 1 and lot 2 is that part of the problem is the difference in sizes and configuration of lot 1 and lot 2. So I would find it hard to separate them.

CHAIRMAN SALADINO: So you want to do it individually. All the discussion will be about lot 1, the first set of five questions
would be about lot 1, and then --

MR. TASKER: John, if I may, since we're talking about the existing parcel and the subdivision of it, the application for the subdivision, I think we can, in looking at the five questions starting with the first question, I think that we members can comment on that requirement as it affects the parcels in whatever dimension or whatever particular aspects strike each of us individually.

CHAIRMAN SALADINO: I kind of thought we could do that, but, you know, Dini --

MS. GORDON: Okay.

CHAIRMAN SALADINO: You don't have to give up so easy.

MR. TASKER: In other words, a free-for-all discussion on question 1, free-for-all discussion on question 2.

CHAIRMAN SALADINO: I thought -- and in the past, we have done that, so that's what I thought we would do this evening, but if it's going to be confusing or perhaps -- I don't want to say confusing, but hard to
understand, you know, it would be just as easy to do it the other way, but I'm -- I would leave it up to the members.

David, what do you think?

MR. CORWIN: I like your way of doing it.

MS. NEFF: Excuse me?

MR. CORWIN: I like John's first proposal.

MS. NEFF: In other words, we're talking about all of them at once, five questions as it relates to the subdivision --

CHAIRMAN SALADINO: To the property of.

So I can repeat the question number 1 again and we can talk about it.

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

MR. TASKER: One dimension, if I may.

CHAIRMAN SALADINO: Yes.

MR. TASKER: Did you want to start at
the right hand of the table?

CHAIRMAN SALADINO: No.

MR. TASKER: All right, start at the left, see what happens.

One dimension that we did speak of, and I think bears heavily on this particular question of the change in the neighborhood, is the fact that the division of the lots as proposed with a shared title right-of-way that comprises a substantial part of the total square footage of the parcel and of each of the proposed subdivided lots is turned over to parking.

Particularly what's proposed for lot 1 which is the present single-family house, I think, lot 1, the whole front yard is parking of it, and right-of-way, which can't be obstructed.

Similarly, the substantial part of lot 2 as proposed looking at the plot plan, it too is, roughly by eye, fifty percent parking, and a very small remainder in the front of the house which, according to the plot plan, is gravel, not yard, and a pretty
modest side yard.

So I think that the combination of those factors would be an undesirable change in the neighborhood compared to the adjacent properties and the others in the same block.

MS. NEFF: My point of view about the issue that you raise is, at present, that is exactly what's happening if you look at the photograph. I don't see that it would create an undesirable change. It is, the existing parcel has exactly that kind of parking. So I don't see that the proposed subdivision creates a different undesirable effect.

MR. TASKER: I understand what you're saying. My thought with respect to that is that the single ownership makes that sort of thing substantially more manageable with respect to what happens on the property. As to the owners' desire as to how the property should be, it could be substantial disagreement between two individual owners as to how much front yard parking there's going to be.
CHAIRMAN SALADINO: I think that there is -- create the lot, we have heard that -- and the applicant and I have a different opinion of how to measure this property. Lot 1 is -- I come to a different calculation because I take into consideration the right-of-way, the right-of-way for the joint right-of-way is 2,378 square-foot, it's not buildable, it's not -- I mean it -- I use the analogy like if you had a 10,000 square-foot lot and 9,000 square feet of that lot is a flag lot and 9,000 square feet of that lot was driveway, you would be left with a 1,000 square-foot lot.

To me, to create a lot that's 3,393 square feet, even with the smaller lots in Greenport, I don't think, I don't think -- I don't know any 3,000 square-foot lots in Greenport, so --

MS. GORDON: But does that change the nature of the neighborhood?

CHAIRMAN SALADINO: Well, if there are none -- if there are none -- if the
neighborhood has a particular character by house size or lot size and you add something that's considerably different, I think, yeah, it does change the character of the neighborhood.

I also think by creating smaller lots, it is a detriment to adjoining property owners. Someone who has a legal lot or a lot that's slightly nonconforming, to create a house on the property next to it that's considerably smaller, I think that does change the character of the neighborhood.

And we've heard -- well, that's kind of like my thought on that as far as --

Dini, would you --

MS. GORDON: Well, I think it's a very awkward situation and it remains an awkward situation, and it still, you know, next to the basketball court, it still has those issues.

I don't see that it changes the character of the neighborhood, and it seems to -- it's sort of idle speculation to decide whether it's a detriment to the
nearby properties. It might improve them.
So I would -- on that one, I would --

CHAIRMAN SALADINO: Okay.
David?

MR. CORWIN: No comment on that one.

CHAIRMAN SALADINO: Okay.

Question number 2 is whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

MR. TASKER: Other than remove one of the buildings, I don't see how.

I mean, it's clear that when you look at the aerial photograph that, and from the plot plan and from the subdivision plan, this particular cluster of property is cobbled together out of part of the backyards of one, two, three, four different lots and, you know, it's going to be -- never going to be better than a pig with lipstick, whether it's two owners or one owner.

CHAIRMAN SALADINO: Ellen?
MS. NEFF: There are other lots in the immediate neighborhood and elsewhere in the Village that are, and I might add regrettably, but it's not up to me to say regrettable, history made this happen. So your expression, the pig, you know, wink, wink, I get that.

MR. TASKER: I borrowed that from Sarah Palin, if you remember.

MS. NEFF: Okay.

Anyway, the right-of-way is fifteen feet wide; is that correct, Mr. Chairman? I think it is.

MR. TASKER: That's what I see.

MS. NEFF: Okay.

The part that runs along the lot, the basketball court and the other house, I take that right-of-way until you get into the area of the two lots, it's around 1700 square feet, that's not an exact number, so it is what it is. I think that the two lots, the two -- the way the lots are currently utilized, I would like it if one of them wasn't a two-family house, but I
don't have the power to change that.

So, again, I don't see the size of the lots, since they, the houses do exist in the place that they are as the overriding concern here.

CHAIRMAN SALADINO: Well, I have a problem with the concept that a subdivision is the only method feasible for the applicant to pursue. I dispute that.

I mean, the property can go on the way it is. The property could be sold. You know, there's other areas, there's other options open to the applicant other than these area variances. So, I mean, to suggest that the only way the applicant can go forward with this plot is to subdivide it, I disagree with that.

I mean, in his narrative, he says the existing property contains three rental units. It's unlikely that the property would convert to owner occupancy. I don't see that at all. I think there are ways for it to go that route, it could be a mother/daughter, it could be owner occupied.
and an investment property. So I -- that's kind of like my thought on that.

MR. TASKER: John, in support of that thought, in fact, you have to think that's what the present owner must have had in mind in terms of the number of times that he bought and sold that property. He sold it and, forgive me, I'm not recalling the dates, he sold it after believing, but not ascertaining that his variance in whatever year it was to subdivide it had been turned down. He sold it because he didn't want, apparently, he didn't want to own it under those circumstances, but he bought it back under the same circumstances that existed before he made the variance application, that is what we presently find to this day.

He must think there's something there or he wouldn't be back in the pool.

MR. CONNOLLY: Can I clarify that statement?

MR. TASKER: Please.

MR. CONNOLLY: The question is, to effectuate the subdivision of the property,
are there any other avenues that the applicant can explore other than obtaining area variances? It's not whether or not there's other benefits or other uses that the owner of the property can benefit from. It's specific to the area variance request.

MR. TASKER: Okay. That kind of flips us over then to self-created hardship.

MR. CONNOLLY: Sure.

CHAIRMAN SALADINO: Well, the other thing is, this should be -- should we really be taking into consideration -- I'm uncomfortable applying our logic to how it relates to a subdivision. We're not the Planning Board, the Planning Board rules on subdivisions. We don't decide about subdivisions, we decide about lot coverage, area variances, land use.

I mean to -- I read from the applicant's narrative, only to point out that everything in this relates to a subdivision, everything in my mind relates to front yard, rear yard, side yard setback.

Maybe we could kind of focus on that,
and the question whether the benefit sought
by the applicant can be achieved by some
method, right now the applicant is here
asking us for area variances, can he achieve
these by some other method, that's the
question that comes up in my mind, not
whether the subdivision should be what we're
considering. So if it gets that far to the
Planning --

MR. TASKER: But the variances he's
seeking, side yard, et cetera, arise because
of the fact of subdivision, the idea of
subdividing it, we're going to be looking at
variances because this is pre-existing in
the Village, I'm not sure when, but probably
before 1944.

CHAIRMAN SALADINO: I agree with you,
and the conversations that we have had in
the past, that question always came up, it
was the elephant in the room. You know, the
Planning Board says no, they sent it to
Zoning, and we, in effect, without having
to -- without discussing outright
subdivisions, talk about variances that
wouldn't come in front of us if the
applicant wasn't looking to subdivide.

MR. TASKER: So we're chasing our
tails.

CHAIRMAN SALADINO: As far as question
number 2, Diana, do you have anything?

MS. GORDON: I think it's very
difficult to see how he could have done much
of anything else, so I guess that's it.

CHAIRMAN SALADINO: David, do you have
anything?

MR. CORWIN: Well, the question is
whether the benefit sought by the applicant,
what's the benefit sought by the applicant,
it's to make money, and I'm going to assume
both of those buildings he paid for, and the
applicant could always tear down and put up
one house on that lot, so there's other
things that can be done besides granting an
area variance.

CHAIRMAN SALADINO: Okay.

Item 3, question number 3 is whether
the requested area variance is substantial.

MR. TASKER: I would say in all cases,
both side yards, gross area, I think you recited the percentage amounts, but they were big numbers.

CHAIRMAN SALADINO: I'm gonna do it again when I get up.

Ellen?

MS. NEFF: I agree they're substantial.

CHAIRMAN SALADINO: Dini?

MS. GORDON: I do too.

CHAIRMAN SALADINO: Just for the record, I'm going to read it into the record, if I could find the notice of disapproval.

Lot 1, front yard setback is six point three feet, requiring an area variance of twenty point seven feet, seventy-nine percent.

The rear yard setback is ten point four feet, requiring an area variance of nineteen point six feet, which is sixty-five percent, lot area is 4,615 square feet, requiring an area variance 2,884 square feet, which is forty percent.

Lot 2, side yard setback is three point
four feet, requiring an area variance of six point six feet, sixty-six percent. Rear yard setback is three point one feet, requiring an area variance of twenty-six point nine feet, which is eighty-nine point six percent. The lot area for lot 2 is 3,393 square feet, requiring an area variance of 4,106 square feet, which is fifty-five percent.

I would be forced to answer yes for that.

David?

MR. CORWIN: The application speaks for itself on that question.

CHAIRMAN SALADINO: Question number 4 is whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Arthur?

MR. TASKER: Well, given that on the day after the variances were -- the variances are granted, the subdivision is permitted by the Planning Board the next
day, nothing has changed, and after that, all we need is a crystal ball to address this question.

MS. GORDON: I didn't hear the last part.

MR. TASKER: I said after that, all we need is a crystal ball to address this question.

MS. NEFF: In my opinion, that it would have an adverse, my answer to that is no, it's not proof, you know, that's speculation of, if you offer a crystal ball. It could be better, you don't know that, but in itself would it create an adverse effect, I think not.

CHAIRMAN SALADINO: Well, again reading from the applicant's narrative, the applicant says, one property most likely will remain as investment property and commercial financing. I'm not sure if -- I'm not sure if I agree with that. I'm not sure that -- like Arthur, I don't have a crystal ball, so I don't know if it's gonna remain as investment property. Again, it
might be owner occupied, might be
mother/daughter. Since everybody's just
speculating, offering an opinion, that's
mine.

The other thing that I think I might
want to say about that is, if eventually the
property was split and it did revert to not
owner occupied, I think it could have an
adverse effect on the neighborhood, increase
density. There is a rental permit law in
effect. There might be a short-term rental
law, but we don't know. As far as how many
people could be in that house, how many
short-term renters if it does go VRBO or
short-term rental, I think the increase in
density might make a difference to the
neighbors, but I can't be sure.

MS. GORDON: I like the way Arthur
described it. It seems to me we can only
look at the shortest possible term and that
we have wetlands problem, we don't have --
I'm told there is already a trash issue,
that's not going to be worse; so I guess I
don't think, as far as we can know, we don't
have an adverse effect.

CHAIRMAN SALADINO: David?

MR. CORWIN: When this application came before the Planning Board a couple years ago, it was presented as splitting up one property to sell two separate properties.

MS. NEFF: Excuse me, split up one?

MR. CORWIN: The one piece of property as two separate properties to facilitate sale of each of the separate structures on the property, and my concern is that it's going to make two separate properties owned by absentee landlords.

I don't know that the applicant is a bad landlord; I'm not calling him a bad landlord because he seems to do what the Village asks him to when something comes up, but what happens when it's two new landlords who just want to squeeze all the money they can out of the property?

MR. TASKER: Particularly if the two properties are, in fact, LLC-1 and LLC-2.

CHAIRMAN SALADINO: Question 5 is whether the alleged difficulty was
self-created, which consideration shall be relevant to the decision of the Board of Appeals, but not necessarily preclude the granting of the area variance.

Arthur?

MR. TASKER: I'm reminded of the definition of, I forgot exactly what term, doing the same thing over and over again thinking you're going to get a different answer. Here is no question that the owner of this property knew what he was getting into in his most recent purchase. Of course it's self-created.

MS. GORDON: It seems to be an unusually clear case of being self-created because he bought and sold, and this was the pickle from the beginning from before he applied for variances in 1998. I don't see how you could answer that any way other than to say it is self-created.

MR. TASKER: In 1998, thinking he had no variance, he sold it. It's kind of like coming to the nuisance in the different situation.
CHAIRMAN SALADINO: David, do you agree?

MR. CORWIN: I agree, yes.

MS. NEFF: And I agree.

CHAIRMAN SALADINO: As do I.

So I’m gonna ask, are we gonna take each one of these variances by itself, are we going to vote on them as part of a whole application or --

MR. TASKER: I think we should do it all together.

MS. NEFF: Agreed.

MS. GORDON: Um-hum.

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Let me ask the attorney.

The only reason I say that is, again, to create a record for, if this perhaps should go somewhere else, to create a record for someone.

MR. CONNOLLY: I think you can consider them all as a whole.

MR. TASKER: I move that we approve the variance as applied for in the applications.
CHAIRMAN SALADINO: You move that we approve the variances as applied for in the application?

MR. TASKER: Yes.

CHAIRMAN SALADINO: But we're gonna have to vote --

MR. TASKER: We can have the motion in front of us, do the five questions and vote on motion.

CHAIRMAN SALADINO: Okay, and you wanted the vote in the negative.

Okay.

I'll second it.

All in favor?

MR. TASKER: No.

MS. GORDON: Yes.

MR. TASKER: Nope, we not voting on motion.

MR. CORWIN: We got to ask the questions.

CHAIRMAN SALADINO: I thought you just made the motion.

MR. TASKER: I did, but we're gonna look at the five questions first, are we
CHAIRMAN SALADINO: We are, but the motion is to word it as you said, to vote in negative as opposed to what we normally do, whether to approve the area variances.

MR. TASKER: I'm sorry.

Our motions are typically to approve a variance.

CHAIRMAN SALADINO: Right.

MR. TASKER: When we don't want to grant it, we vote no.

MS. NEFF: How is this different?

MR. TASKER: It isn't.

CHAIRMAN SALADINO: So why would we -- I'm just confused, Arthur, as to why bring it up now before SEQRA and before the five questions; what am I missing?

MR. TASKER: So that we know we're looking at all of the individual variances as the lot.

CHAIRMAN SALADINO: Okay.

MS. NEFF: As a whole might work better.

CHAIRMAN SALADINO: I'm sure one of us
would have brought that up and the attorney
is here to remind us too that we're gonna
take all the variances together as opposed
to vote on them separately.

MR. TASKER: All right. Well, then
I'll withdraw my motion, if the second was,
withdraw the second.

CHAIRMAN SALADINO: So did we do SEQRA?

MS. NEFF: No.

CHAIRMAN SALADINO: I have to ask the
attorney, is it a Type 2 action?

MR. CONNOLLY: Type 2 action area
variances.

CHAIRMAN SALADINO: I'll make a motion
that the Zoning Board of Appeals appoints
itself lead agency for the purposes of
SEQRA.

So moved.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.
CHAIRMAN SALADINO: And I'll make a motion that this a Type 2 action for the purposes of SEQRA.

So moved.

MR. TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: And we'll do these five questions.

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

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?
ZBA - October 16, 2018

MR. TASKER: Yes.

CHAIRMAN SALADINO: I'm going to vote yes.

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

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: I'll vote yes.

Whether the requested area variance is substantial.

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.
ZBA - October 16, 2018

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: I'll vote yes.

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

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: I'm gonna abstain.

CHAIRMAN SALADINO: I'm sorry?

MR. TASKER: I'm abstaining on that question.

CHAIRMAN SALADINO: I'll vote yes.

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but not necessarily preclude the granting of the area variance.
ZBA - October 16, 2018

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dini?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: Yes.

CHAIRMAN SALADINO: I'll vote yes.

Arthur, do you want to make that motion?

MR. TASKER: Okay.

I move that we adopt or grant all of the individual variances set forth in the, what is it called, set forth in the application for the Zoning Board.

MS. NEFF: I think revised is --

MR. TASKER: Revised June 21, '18 if that is the latest.

CHAIRMAN SALADINO: No. I have -- my notice of disapproval says July 10, 2018.

MR. TASKER: No. I'm looking at the application in Zoning, that's where the variances are set forth.
CHAIRMAN SALADINO: This is a revised --

MS. NEFF: It can go from that, I think.

MR. TASKER: Let's step aside for just a second.

What we're doing is approving or disapproving his request for variances.

CHAIRMAN SALADINO: My only concern is --

MR. TASKER: The variances are set forth in the Zoning Board of Appeals application.

CHAIRMAN SALADINO: My only concern is, I have three applications from this applicant in front of me with different dates. One is March, one is April, one is July 10th. So if --

MS. MOORE: They kept changing the notice of disapproval, so take the last one.

MR. TASKER: The notice of disapproval is dated July 10th. The same as the application to the ZBA, I believe.

Is that right?
ZBA - October 16, 2018

MS. MOORE: I know I kept submitting new paperwork just to update based on the newest notice of disapproval.

Whatever is the last date.

CHAIRMAN SALADINO: I believe July 10th is the last day I have.

MS. MOORE: That would be it.

CHAIRMAN SALADINO: So just so it's clear, again, can you make that --

MR. TASKER: Okay.

I move that we grant the variances set forth in the notice of disapproval dated July 10, 2018.

CHAIRMAN SALADINO: Is there a second?

MR. CORWIN: Second.

CHAIRMAN SALADINO: David?

MR. CORWIN: Nay.

CHAIRMAN SALADINO: Dini?

MS. GORDON: Nay.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: No.

CHAIRMAN SALADINO: And I'll vote no.
ZBA - October 16, 2018

MS. GORDON: I guess I would like to reiterate for the record what I said last month, which is that our code is really deficient in not having a sort of exceptional situation or something that could deal with some of these problems which have to do with unique composition of the lots that we deal with because I voted no because I think the request is very substantial. It's too substantial, given the way the code presents these choices. I have to honor the code, but I think it's a shame that we don't have a more flexible set of standards for unique cases. And if we're ever going to revise, this should be one of the things that is attended to.

CHAIRMAN SALADINO: Well -- I'm sorry, Ellen.

MS. NEFF: Go ahead.

CHAIRMAN SALADINO: I agree with some of the stuff that you said, but I read from the notice of disapproval, for us to decide any other way than we did, especially when it comes to Section 150-C, no lot shall be
formed on part of the lot already occupied
by a building, that's almost legislating.
If we ignore that, we could in effect be
legislating new code.

As far as the other variances asked, at
what point in time does too much become too
much? We're talking about a seventy-nine
percent, sixty-five percent, sixty-six,
forty, eighty-nine percent, sometimes too
much is just too much.

MS. GORDON: I agree. I am suggesting
that some legislation might deal in the
future with situations like this.

MR. TASKER: Dini, the only thing I
would say to that, to your concern about
unusual situations such as this lot, I think
by unusual situations, you're talking about
the geometry of it, but if this lot were a
perfectly rectangular lot of the same total
square footage, with the same houses on it,
fronting perfectly, squarely on the street,
and the same subdivision proposal to split
in some way to create two separate lots out
of it with side yard problems and total area
problems, we've got the same question, the
difficulty of applying the ordinance is no
different in that situation than in this
one.

What I'm saying is, just because it's a
crazy shaped lot doesn't change what we have
to do.

MS. NEFF: If I may say, in your
hypothetical, you talked about lots oddly
configured varying greatly from what the
code requires, and on the street, that's not
the case here.

And so leaving that aside, I think the
thing that Dini mentioned about, in place
that historically has many structures on
many lots with a great diversity that were
there way before the code was adopted.

I will talk about one such house just
to the east of lot 2, there is the very old
house, probably a house prior to 1840, moved
to that lot, which you can see if you have
this thing in front of you, with a structure
added to it that probably covers more than
fifty percent of the lot.
Now, the fates have smiled on this particular property, well cared for throughout its history, and fate has not dealt kindly with this thing that was created and buildings were either moved or constructed in those sites. It is what it is, and I think that the body that has to do what you're basically suggesting, Dini, is Zoning Board of Appeals, that's faced with weighing things, and we have to weigh them and the givens are not always what we'd like, but they are the givens. And in this case, it's this configuration with this right-of-way, those buildings and those lots.

MR. TASKER: So, Mr. Chairman, send a message -- no, I guess we don't a message to the Village Board.

CHAIRMAN SALADINO: The Village Board, if the applicants so chose, after they went to the Planning Board, had the right to go to the Village Board and address these questions. The Zoning Board, the appeal process with the Zoning Board is an
administrative law judge. The appeal from 
the Planning Board is the Village Board. 

MR. CONNOLLY: An aggrieved party 
brings an Article 78. 

CHAIRMAN SALADINO: Our code, as a 
matter of fact, I just read again that the 
Planning Board can be appealed to the 
Village Board. If I'm mistaken but it's --
I don't want to -- it doesn't matter here
now but.

MS. MOORE: Are you sure it's not for 
site plan?

CHAIRMAN SALADINO: Again, if I'm 
mistaken I don't want to get the big book 
out because it doesn't matter here now, 
but --

MS. MOORE: Are you sure it's not for 
site plan?

CHAIRMAN SALADINO: Again, it's not --
it doesn't matter, if I'm mistaken I 
apologize, I don't think I am, but I'm not 
about to make a big deal out of it.

But as far as the Village Board, there,
I think this is up to them to legislate, to
ZBA - October 16, 2018

decide if uniquely formed nonconforming lots
should have come in front of the Planning
Board for subdivision, they can add
something to the code that they can drop the
lot size, they can do a number of things.

For me, as a member of the Zoning
Board, I know it's not supposed to be black
and white. Sometime it is, sometimes it's
not; but I can use a calculator and I can --
we keep hearing, we keep hearing it's about
land use and variances are about land use
and when they're excessive, I don't think
they should be granted, so, you know, that's
just kind of my thought.

Anyone else?

David, do you have something to say?

MR. CORWIN: No.

CHAIRMAN SALADINO: We have an item
number 6 that's been re-added to this,
recently added to this agenda.

Any other Zoning Board of Appeals
business that might come before this Board,
if anybody would like to say anything or
have a question about zoning, we'll be glad

Flynn Stenography & Transcription Service
(631) 727-1107
to listen. If not --

    MR. CORWIN: Question.

    CHAIRMAN SALADINO: Okay.

    MR. CORWIN: It was former practice that basically if it was a simple-enough variance and everybody agreed, that the building inspector would issue the building permit rather than wait for the determination, what we did tonight, and then it came up in questions, can we do that or not; and what is the status in that now and? Are we holding straightforward applications up for an extra month where it's clear that the Zoning Board agrees that somebody should have a variance?

    CHAIRMAN SALADINO: Actually, I had the conversation with the Building Department. Their opinion is that if it's a relatively simple application, they would issue the building permit.

    Am I getting this right?

    MS. LINGG: Correct.

    CHAIRMAN SALADINO: They would issue the building permit.
ZBA - October 16, 2018

MS. GORDON: So that would mean Laura Dicapua would get her building permit ASAP.

MS. LINGG: As long as there's been a vote.

CHAIRMAN SALADINO: It was always my recollection that they wouldn't, the building inspector wouldn't issue the building permit until findings and determinations came out and that was voted on, but also that was also my recollection that sometimes that happened, sometimes it didn't.

MR. TASKER: Well, that can lead to, you know, an extended cycle because if a building permit is issued on the strength of a vote without the determination of the file and all that, there is the prospect that an aggrieved party is going to appeal to the Zoning Board on the issuance of the building permit. I have done that on behalf of clients.

CHAIRMAN SALADINO: It's not for us to decide that. That would be strictly up to the -- what happens after we get up from
this table, Arthur --

MR. TASKER: Who is sticking their neck out is the question.

CHAIRMAN SALADINO: If the Building Department is okay with that, I don't have a problem with it.

David, do you?

MR. CORWIN: No. When it's obviously a minor variance, as a general rule, no.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: (No response.)

CHAIRMAN SALADINO: I'm willing to let them hold the ball.

So the last thing we have is -- anybody else have a question?

(No response.)

The last thing we have is item number 7, motion to adjourn.

MR. TASKER: So moved.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.
CHAIRMAN SALADINO: And I'll vote aye.

Thank you, folks.

(Time noted: 7:05 p.m.)
CERTIFICATE

STATE OF NEW YORK )
COUNTY OF SUFFOLK )

I, STEPHANIE O'KEEFFE, a Reporter and Notary Public within and for the State of New York, do hereby certify that the within is a true and accurate transcript of the proceedings taken on October 16, 2018.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter. IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of October, 2018.

_________________________
STEPHANIE O'KEEFFE

STEPHANIE O'KEEFFE

do [31] 4/5 4/4 4/18 7/7 8/23 9/14 9/23 10/3 10/5 17/4 21/7 21/11 22/5 22/10 26/17 28/2 28/6 28/11 29/9 30/5 31/9 32/12 35/11 38/8 40/8 41/8 43/6 43/17 44/11 46/8 48/7 does [5] 13/22 14/5 14/12 25/15 39/7
parties [1] 48/12
party [2] 42/4 45/19
people [1] 25/14
permitted [1] 23/25
photograph [2] 12/10 15/16
physical [2] 23/18 34/6
pick [1] 27/18
piece [1] 26/9
pig [2] 15/22 16/7
pillars [1] 5/21
place [2] 17/5 40/15
Planning [10] 19/16 19/16 20/10 20/22 23/25 25/6 41/22 42/3 42/8 43/3
pool [1] 18/20
portico [1] 5/21
power [1] 17/2
practice [1] 44/5
pre [1] 20/15
pre-existing [1] 20/15
preclude [2] 27/4 34/24
present [3] 11/16 12/8 18/6
presented [1] 26/6
presently [1] 18/18
presents [1] 38/12
pretty [1] 11/25
prior [1] 40/21
probably [3] 20/16 20/21 20/24
problems [3] 38/7 39/25 40/2
proceedings [1] 48/9
process [1] 41/25
produced [3] 8/7 10/19 32/15
proof [1] 24/12
properties [9] 8/9 10/21 12/6 15/2 26/7 26/10 26/13 26/23 32/17
property [28] 3/22 6/14 7/2 10/15 12/20 12/21 13/5 14/8 14/11 15/18 17/11 17/12 17/20 17/21 18/2 18/8 18/25 19/6 24/19 24/20 24/25 25/8 26/7 26/9 26/12 26/21 27/12 41/3
prospect [1] 45/18
Public [1] 48/7
purchase [1] 27/13
purposes [2] 31/17 32/4
pursue [3] 15/11 17/10 33/7
put [1] 21/18

Q

question [27] 4/17 8/5 9/8 9/19 9/20 10/16 11/8 15/8 18/24 20/2 20/7 20/20 21/6 21/13 21/23 23/15 23/16 24/4 24/9 26/24 27/11 34/19 40/2 43/25 44/3 46/4 46/16

questions [14] 7/10 7/12 7/13 7/17 8/5 9/7 10/13 29/9 29/21 29/25 30/18 32/13 41/24 44/11

R

raise [1] 12/8
rather [1] 44/9
re [1] 43/20
re-added [1] 43/20
read [4] 19/20 22/12 38/22 42/7

really [2] 19/12 38/4
rear [3] 19/24 22/19 23/3
reason [1] 28/18
reasoning [2] 7/23 7/24
recalling [1] 18/9
recap [1] 5/20
recent [1] 27/13
recently [1] 43/21
recite [1] 7/13

rectified [1] 22/3
recollected [2] 45/7 45/11

record [7] 7/20 7/23 22/12 22/13 28/19 28/20 38/3

rectangular [1] 39/20
reducing [1] 5/13