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VILLAGE OF GREENPORT COUNTY OF SUFFOLK

STATE OF NEW YORK

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ZONING BOARD OF APPEALS

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Third Street Firehouse
Greenport, New York

November 21, 2017
6:00 p.m.

NOTE: Translation created using live broadcast
recording

JOHN SALADINO - CHAIRMAN

DAVID CORWIN - MEMBER

ELLEN NEFF - MEMBER

DINI GORDON - MEMBER

ARTHUR TASKER - MEMBER

JOSEPH PROKOP - VILLAGE ATTORNEY

EILEEN WINGATE - VILLAGE BUILDING

INSPECTOR KRISTINA LINGG - BUILDING CLERK

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CHAIRMAN SALADINO: Item number 1
is motion to accept the minutes of the
October 17, 2017 ZBA meeting.

So moved.

MR. TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MR. TASKER: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Item number 2,
motion to approve the minutes of the
September 19, 2017 ZBA meeting.

So moved.

MR. CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MR. TASKER: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Any
abstentions?

MR. CORWIN: I abstain.

CHAIRMAN SALADINO: That motion
carries.

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Item number 3 is a motion to schedule the next ZBA meeting to December 19, 2017 at 6:00 p.m. at the Third Street Fire Station, Greenport, New York 11944.

So moved.

MR. TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MR. TASKER: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Any opposed?

(No response.)

Item number 4 is a motion to accept the findings and determinations in the matter of the application of Sixth Street LLC.

So moved.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. TASKER: Aye.

MR. CORWIN: Aye.

MS. GORDON: Aye.

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MS. NEFF: Aye.

AUDIENCE MEMBER: I have a question.

I see that there are no minutes being taken (inaudible), is that a problem?

CHAIRMAN SALADINO: We have a video recording.

ATTORNEY PROKOP: We'll transcribe off the -- We don't know what happened, it was confirmed; and that person is not here, so we don't know what happened.

Obviously, we're concerned for her, but in the meantime, we do have a video recording; she can make the transcript from the video recording.

So everybody, remember to state your name when you start speaking, please.

Mr. Chairman, I hope you don't mind that I said that.

CHAIRMAN SALADINO: It was never suggested that we hold the meeting up.

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AUDIENCE MEMBER: (Inaudible).

CHAIRMAN SALADINO: If she makes the transcription off the video tape, we will.

AUDIENCE MEMBER: There are times that the video didn't work; are there any concerns about that?

MR. TASKER: In which case, she won't be able to make a transcription.

ATTORNEY PROKOP: We'll take the basic minutes that are required by law. I'll take them.

Thank you for bringing that out.

CHAIRMAN SALADINO: Did we vote on the findings and determinations?

I'll ask for the vote again.

Motion the accept the findings and determinations in the matter of Sixth Street LLC.

So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MR. TASKER: Aye.

MR. CORWIN: Aye.

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MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: Item number 5 is the continuation of the public hearing for the Landmark Group for the property located at 222 Manor Place, Greenport, New York 11944.

The public notice is attached for those that don't have it.

The Suffolk County Tax Map Number is 1001-2-2-41-1.

Is there anyone from the public that would like the speak?

We're gonna differ to the father, we'll let him go first.

If you would, name and address.

FATHER BALLAS: I am Father Jerasimos Ballas. I live in Commack, and I am the priest here in the local Greek Orthodox Church for the last twenty-four years.

I happen to know (inaudible) for as long as I'm here, and I would like to inform your Board that they're

1
2 really nice people, contributing to the
3 wellbeing of this township and
4 Southold. They help with the church
5 and they help with other things that I
6 do here in Greenport.

7 Besides that, it came to my
8 attention that there is a problem with
9 the property they bought (inaudible)
10 and the position of Board as to using
11 it as a medical. And I don't know
12 about the legalities, I don't know the
13 codes and everything else; but I know
14 that it is very, very important to
15 continue to be a medical building. We
16 need to face the fact that Greenport
17 and Southold and East Marion is
18 occupied by mostly old people that live
19 here year-round and today, I had an
20 incident in the local mechanic shop for
21 the car repairs where the man is sick,
22 very sick with his heart and he needs
23 to see a doctor, he has to go to
24 Riverhead, and it's really an ordeal
25 for them. Old people, they cannot

1
2 drive and they cannot see, they need
3 something local and I think it is a
4 necessity in this town, this building.

5 And also, I understand that
6 there's a problem with handicap ramp,
7 the ramp which is according to the ADA,
8 it's (inaudible) and I don't see why
9 it's in position, and I don't know the
10 legalities, all I know is this building
11 in necessary to stay the way it is, and
12 it's going to be a community service,
13 it's going to be a service to this
14 town.

15 As I told you, I been talking to
16 my parishioners and they're very, very
17 upset about this fact. They won't be
18 able the travel and go to other places
19 when it's here, it's existing, it is
20 not change the use of the building,
21 they need to comply with the ADA, and I
22 think we should take this under
23 consideration and think of the citizens
24 here and things that are needed.

25 Thank you.

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CHAIRMAN SALADINO: Thank you.

MS. MOORE: I was not asked to speak.

Patricia Moore.

I actually had the pleasure of representing the applicants when they purchased the property, and I can tell you that one of the responsibilities as the lawyer for a purchaser of a property, the first thing you do is, you come and look at the Village files, you pull the certificates of occupancy.

In this case, I knew the building because I knew Dr. Gonzalez, and I had been inside the building. That was when Dr. Gonzalez was treating patients and, in fact, his wife Mrs. Gonzalez used to teach my children Spanish, so I was there many, many times and sat in that office.

So when they came to me, and they had me represent them as the attorney for the purchase, one, it's very important that the Village recognize

1
2 and honor the COs that are issued by
3 this Village. It's very important.
4 People, buyers -- lawyers have to rely
5 on the C of Os, buyers have to trust
6 that their investment is properly
7 applied within the Village, and it's,
8 the little bit that I heard from last
9 meeting and that I see here from the
10 record, it appears that someone who
11 bought a building as the medical office
12 with the appropriate COs for medical
13 offices wants to make improvements to
14 the building that are all to make the
15 building more conforming to the state
16 code, particularly to handicap
17 accessibility. Those things should
18 certainly be welcomed by the Village
19 and be encouraged by the Village
20 because it's certainly in the Village's
21 best interest to have both legally
22 compliant, as well as state code
23 compliant buildings.

24 And again, it's just very
25 upsetting that I, when issues come up

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on a building that I know has COs for all, particularly for the use.

I thank you for the listening, and I hope you will consider their application favorably.

CHAIRMAN SALADINO: Thank you.

Is there anyone else?

MR. GROSSMAN: Members of the Board, Adam Grossman, 120 Fourth Street in Riverhead. I'm here once again on behalf of the adjacent property owners to the east and the west of the subject property.

I did submit a letter, I think about a week-and-a-half-or-so ago that hopefully you all received. I don't intend in my presentation tonight to repeat anything that I've already submitted; instead what happen was, my client Tony Holmes (phonetic) was ill and he sent me the letter over the weekend that I forwarded yesterday. It's really just a couple, you know, few comments of his. I given out hard

1
2 copies tonight. I e-mailed it
3 yesterday to Eileen Wingate, I wasn't
4 sure whether it would be acceptable for
5 me to read the letter into the record
6 even though you have a hard copy of it,
7 but Mr. Holmes asked that I do that
8 because he wasn't well enough to be
9 here tonight. Will that be acceptable?

10 Okay. Here's what he said: I
11 would like to raise two major problems
12 with the proposed modifications to the
13 medical offices on Manor Place. From
14 the description of these two problems,
15 it should be clear that you, members of
16 the Zoning Board, hold the quality of
17 life in our residential neighborhood in
18 your hands, and you hold the lives of
19 the future patients in your hands as
20 well.

21 One, hours of operation. We
22 bought our house in 1999 because we
23 like the Town of Greenport, Village of
24 Greenport, and believe the neighborhood
25 adjacent to Manor Place would be a nice

1
2 place to live. At that time, there
3 were doctors' offices next door, but
4 the use of the building for offices was
5 very low-key. Even after parking
6 spaces were added to the back of the
7 building, neither noise nor light
8 intruded on our enjoyment of the
9 backyard.

10 A statement from the lawyer
11 representing the new owners affirms
12 that the hours of operation will be
13 from 8:00 in the morning to 8:00 at
14 night; and the architect said that the
15 lights in the back of the building
16 would be on until 9:00 at night. This
17 means people will begin coming at 7:00
18 in the morning and will not be gone
19 until 9:00 at night. That is fourteen
20 hours a day of use, and assuming a
21 six-day work week, that comes to 84
22 hours a week. This is more than twice
23 the normal forty-hour work week. If
24 these hours of operation are accepted
25 by the Zoning Board, none of the

1
2 adjacent home owners will be able to
3 enjoy our backyards in the evening in
4 spring, summer and fall as we have long
5 been able to do.

6 In a recent Zoning Board meeting,
7 one of the owners described a different
8 set of hours of operation from 9:00 to
9 5:00, that would effectively be, with
10 respect to people coming and going from
11 8:00 to 6:00, this is an acceptable
12 working day and would allow us to
13 continue our, to enjoy our backyards
14 without intrusion by noise or light.

15 Number two, emergency egress. I
16 was a volunteer fireman in Taos, New
17 Mexico. Although I never had to enter
18 a burning building, my training gave me
19 sufficient experience to be very much
20 aware of the dangers fire creates.

21 One of the issues that keeps
22 nagging me is that the floor plans show
23 no emergency exits from the second
24 floor. According to the plans, an
25 elevator will bring disabled people to

1
2 the second floor. If there are three
3 doctors' offices, there could be as
4 many as six handicapped people on the
5 second floor with no means of egress in
6 a fire. How can you bring handicapped
7 people to the second floor without any
8 means of emergency egress?

9 There is a large staircase from
10 the first to the second floor. If a
11 fire breaks out on the first floor, the
12 heat and smoke will use that staircase
13 like a chimney and fill it to the
14 second floor. You can't put patients
15 in the elevator because if it stops
16 midway, they are trapped. Imagine the
17 terror of a disabled person in a
18 smoke-filled room with no way to get
19 out.

20 We have heard countless times how
21 the modification of the building will
22 make it ADA compliant and what an
23 improvement that will be. How can this
24 be true if there's no emergency egress
25 for handicapped people on the second

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floor?

So that's was the letter from Tony Holmes. And in addition to that, I got an e-mail from his wife, Karen Frank.

CHAIRMAN SALADINO: Do you have his address?

MR. GROSSMAN: I do. He would be -- I'll have to grab my file. That's their New York City address, but they live adjacent on Manor Place in Greenport, I just don't remember the house number. I'm sorry.

AUDIENCE MEMBER: (Inaudible)

MR. GROSSMAN: Okay. 216.

Okay. Karen Frank also e-mailed me and asked me to state a few things to the Board.

The owners' lawyer states that installing screens and plantings is a concession, but as we understand it, such provisions are required by the Town of Greenport, so how can they be concession?

Operating from 8:00 to 8:00 is

1
2 hardly a restriction. They are longer
3 hours of operation than was previously
4 the case, and they are longer than the
5 hours as described in a previous ZBA
6 meeting.

7 As we understand the Village code,
8 a parking area of less than twenty
9 spaces does not require two driveways,
10 but only one. So the statement
11 regarding that requirement to the Town
12 is false. The Village, I think she
13 means.

14 At some point someone may have
15 mentioned gravel as a possibility that
16 we have never made any demand, however
17 a formal request; and certainly was not
18 included in our formal list of
19 priorities that you received along with
20 your letter earlier in November. What
21 was requested was a permeable surface.
22 Previously, he claimed, the attorney
23 for the applicant, that there are no
24 permeable surfaces that could be used,
25 so the Colorado case was to demonstrate

1
2 that indeed such surfaces are
3 available. It seems to us that it
4 might be possible for the Village of
5 Greenport to approve the use of a
6 permeable surface, but it has not to
7 date, it seemed to be a weak argument.

8 Handicap parking is only required
9 in the back if the handicap access is
10 in the back, which is currently the
11 plan, but location of the handicap
12 entrance can be moved to the front
13 where it now is. It seems very likely
14 given the current floor plans that
15 there will indeed be more patients,
16 given that there are more exam rooms
17 than the plan that existed before. And
18 even more importantly, given the number
19 of additional offices other than
20 doctors' offices, it seems very clear
21 that the number of users of the
22 premises in total will increase.

23 So these the comments of my
24 clients to the east.

25 In addition to that, I wanted to
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say, I greatly appreciate all of you listening to all of us and the testimony related to this application. I do stand by what I have submitted to the members of the Zoning Board in terms of my belief that this is an increase in the use of this property based on what was presented in the plans and what was presented in the testimony.

With that, I'm hoping that you will consider the concerns that I have stated on behalf of my clients who are directly adjacent to the east and west of the subject property.

I thank you.

CHAIRMAN SALADINO: Thank you.

Anyone else from the public?

Name and address, please.

MR. SOUTHARD: Charles W.

Southard, registered architect, 435 Bay Home Road, Southold, New York.

I don't want to make this long. I have -- I have copies (inaudible)

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(handing papers to the Board).

What I'm trying to do is sum up everything that has been said, everything that's been asked, so that we have them all fresh in our minds.

The prior hearings have concluded that this is a COd, non-conforming use, by a pre-co signed by the Building Inspector on February 28, 2002.

Prior hearings have also concluded, this has continually been used and occupied as a medical office building by statements from numerous speakers.

The building does conform to all zoning code lot requirements. It's not over area. It's not, doesn't have a side yard problem, doesn't have a rear yard problem, there are no issues with the land that it's on.

Mr. Grossman states that his client's house is .8 feet from the property line. I just want to know if Mr. Grossman understands that according

1
2 to the zoning code, his client should
3 be a minimum of ten foot from his
4 property line. Does Mr. Grossman
5 understand that when his client opens
6 his car door and gets out of his car,
7 he is trespassing on my client's
8 property? These are all issues that
9 could be solved by the neighbors. Do
10 his clients understand that this was
11 the same condition when they purchased
12 their properties? The problem is not
13 my client's since they meet all
14 setback, it is his clients.

15 I read and re-read and I can't
16 find any reference in the zoning code,
17 Section 150-20-A1 to say
18 intensification of use, which
19 Mr. Prokop stated. There the no
20 mention of intensification of use or no
21 mention of expansion of use. The
22 attorneys substituted their own words
23 for the (inaudible) code.

24 Mr. Solomon has sent you a letter
25 dated November 14, 2017 which we would

1
2 like to have included in the record.
3 In the letter, he gives several legal
4 cases where the increase in volume of
5 business or the increase in seating or
6 the increase of customers does not
7 constitute an expansion of a
8 nonconforming use. I'm not going to go
9 into them, he's already submitted those
10 to you. I'm just gonna mention, there
11 was no request for the expansion of a
12 building size or use or change of use;
13 we are requesting in accordance with
14 zoning code section 150-23 repairs and
15 maintenance, which I'll read,
16 notwithstanding any of the above
17 regulations. Nothing in this article
18 shall be deemed to prevent normal
19 maintenance and repair of any use or
20 building, nor the carrying out upon the
21 issuance of a building permit of major
22 structural alterations or demolition
23 necessary in the interest of public
24 safety. In granting such a building
25 permit, the building inspector shall

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state their precise reason why such alterations are deemed necessary. These alterations are for the public safety of the handicapped and the elderly patients of the doctors within this building.

Mr. Grossman had stated that my client has not been willing to address the neighbor's concern. This is totally untrue.

My client will gladly eliminate the driveway; although, the Planning Board's consultant has reviewed this project and stated that this will allow use of more on-site parking spots, relieving the street-parking needs.

My client will use any parking surface required by the Planning Board. My client has already provided the Board with plans, which I delivered to you. I believe you should all have my plans by now.

My client has already provided the Board with a lighting Plan and

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specifications which show the location of all lighting and that all will comply with the Dark-Sky requirements, although there is no requirement for that within with Village.

We have already shown on these plans that there is a fence and a landscape buffer area in compliance with the code.

I have already provided to you the specifications for the new Fujitsu heating and air conditioning units. They're efficient and quiet and can be located within a reasonable distance to the indoor units.

The removal of street trees and sidewalks is the responsibility of the Village, which we cannot control. We have conveyed this information to all parties, which apparently Mr. Grossman chooses to ignore.

Now, do you have any questions?

MR. CORWIN: You made some you some revisions to the plans.

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MR. SOUTHARD: Have I, or will I?

MR. CORWIN: Have, dated October
25th.

MR. SOUTHARD: All of the dates of
revisions are shown on the --

MR. CORWIN: October 25th, yes.

MR. SOUTHARD: Yes.

MR. CORWIN: Could you briefly,
briefly say what revisions were made,
please?

MR. SOUTHARD: What was the date?
Oh, that was the date, probably the
last date of the revision, those were
the completion of the plans, I believe.
I don't believe there were too many
revisions to it, some minor things. I
might have moved the dumpster. I don't
remember what I did. I'm sorry.

MR. CORWIN: Okay.

Thank you.

CHAIRMAN SALADINO: Is there
something that you see, David, that you
would like clarified?

MR. CORWIN: Well, that's why I'm

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asking. I don't see them, and I just wonder what they are.

ATTORNEY PROKOP: Normally, in the block at the bottom is a description of what was changed; is that --

MR. CORWIN: But there's not a description.

MR. SOUTHARD: No. There is no description of changes. I don't put that on.

All right, if there is no questions about any of the documents submitted, I'd like to -- What I'd like to do briefly is go over the four tests that we have on this application.

Number 1 is, the applicant cannot realize a reasonable return.

I have an appraisal here which I'm going to give to you from Thomas Padden, a licensed real estate appraiser here in the Village of Greenport. All right. I have copies, I'll give you (handing). I'm going to summarize them for you.

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What Mr. Padden did was, he analyzed this building for the comparable value of it if it was to have to revert to a single-family residence. What he states in his report is that, a single-family residence as it is now, would be worth \$810,000. My client paid \$890,000 for the house. In addition to the 810, that includes a figure of about \$360,000 for renovations.

MR. CORWIN: Can I just interrupt you for minute?

MR. SOUTHARD: Sure.

MR. CORWIN: This was presented as an area variance.

MR. SOUTHARD: No. This is not an area variances.

MR. CORWIN: This application is an area variance, and the first question for a use variance is the applicant cannot realize a reasonable rate of return.

MR. SOUTHARD: I agree.

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MR. CORWIN: So something in there --

CHAIRMAN SALADINO: I think what David is trying to say is, you applied the standards for a use variance in your presentation as opposed to the five questions for area variance.

Do you want us to consider these?

MR. SOUTHARD: I'm sorry?

CHAIRMAN SALADINO: You're holding yourself to a tougher standard than we are.

MR. SOUTHARD: This is for a use variance; this is not for an area variance.

CHAIRMAN SALADINO: You don't want to say that.

MR. SOUTHARD: This is not for an area variance. We don't need an area variance for anything; this is a use variance. Am I correct?

CHAIRMAN SALADINO: No.

This application is for an area variance.

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MR. SOUTHARD: Well, what is the area variance we're asking for? We're not asking for anything, not an area. This building meets all the code requirements of the zoning code, setbacks, area, lot area coverage, lot size, everything is met; we have a variance granted in the past for a front yard variance which has already been granted, so there is no area variances required.

CHAIRMAN SALADINO: I'm not gonna belabor the point.

Are you saying -- I'm not sure what you're saying. Are you saying you want to change --

MR. SOUTHARD: No. I'm not changing, this is what we applied for.

CHAIRMAN SALADINO: No. What you applied for was an area variance. Your application is for an area variance. This Board voted to accept an area variance. If you want this application to be considered as a use variance, we

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got to start all over again.

MR. SOUTHARD: What would be the area variance we're asking for?

CHAIRMAN SALADINO: I can read from the notice of disapproval.

MR. SOUTHARD: We had this discussion in the first hearing, before we even did that, there was confusion whether it was area use and Eileen stated that she looked up the records and found out we had already had a variance for the front yard.

CHAIRMAN SALADINO: I don't even know if I should be saying this, but can you recall your attorney saying that he would file an Article 78 before he agrees to a use variance?

We'll do anything you ask us here, you want us to resubmit this as a use variance, we'll do it.

MR. SOUTHARD: If it's an area variance, what are we asking for?

CHAIRMAN SALADINO: We'll read from the notice of disapproval.

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2 The notice of disapproval, it's
3 disapproved on the following grounds,
4 150.20 nonconforming uses. Except as
5 provided herein, any nonconforming use
6 of buildings or open land existing on
7 the effective date of this chapter or
8 authorized by a building permit issued
9 prior that they be continued
10 indefinitely except that such building
11 or use shall not be enlarged, altered,
12 extended, reconstructed, restored or
13 placed in a different portion of the
14 lot or on a parcel of the land occupied
15 by such use on the effective date of
16 this chapter.

17 MR. SOUTHARD: Is that not a use
18 variance? It says first thing --

19 CHAIRMAN SALADINO: I thought it
20 was. We accepted that the Board
21 decided that --

22 MR. SOUTHARD: I thought we
23 changed that.

24 CHAIRMAN SALADINO: Are you really
25 sure you want say that to us? You're

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not helping yourself.

MR. SOUTHARD: I don't understand what area we're asking for as a variance.

CHAIRMAN SALADINO: We accepted the application as an area variance based on the fact that this is a nonconforming use of a nonconforming building and it shall not be enlarged, altered, extended, reconstructed or restored.

MR. CORWIN: There was a removal of a bumpout in the driveway, that was what I think --

CHAIRMAN SALADINO: I don't want the get into the -- what we're talking about --

MR. SOUTHARD: I can address the questions of the variance --

MR. CORWIN: And there was the fire escape on the second floor.

CHAIRMAN SALADINO: Without getting into the specifics of the application, if you want to talk about

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a use variance, we're gonna have to do something different. If you want to address this application as an area variance, which is what we accepted, which I think if your attorney was here, he would probably tell you that, but it's, if you're representing the applicant --

MR. SOUTHARD: We can do an area variance.

CHAIRMAN SALADINO: Is there anything else?

MR. SOUTHARD: Do you have a copy of the use variance questions, please?

CHAIRMAN SALADINO: Of the questions for a use variance?

MR. SOUTHARD: Yes.

CHAIRMAN SALADINO: Actually, it's on what you submitted.

MR. SOUTHARD: We had submitted both of them, so I'm sorry.

CHAIRMAN SALADINO: I'm sorry, my colleagues said they thought you misspoke, did you ask for five

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questions for an area variance or four questions for use variance.

MR. SOUTHARD: Five questions for area variance.

CHAIRMAN SALADINO: (Handing).

MR. SOUTHARD: Number 1, whether an undesirable change will be produced in the character of the neighborhood or detriment to the nearby properties will be created by the granting of this area variance.

This build is an existing building. It has the existing setbacks. There is no changes to the building itself. The building is a conforming building.

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

It cannot be achieved by any other means because what we're trying to do is to make this building conform within today's building code.

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Whether requested area variance is substantial.

It's not substantial because it's not changing the size, it's not changing the occupancy of the building, it's merely renovating.

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

The proposed variance will remove the oil consuming oil burners which are old, the old air conditioners and replacing them with a modern heating and air condition system. We'll reduce the amount of heat loss in the building by new siding, new windows and new roofing, so we'll only improve the visual use of the neighborhood by taking the ramps out and putting them in the rear where they're not seen.

Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the

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board of appeals, but shall not necessarily preclude the granting of the area variance.

My clients purchased this building and they purchased it with all COs in place and as the existing building, they have not created this themselves, they're merely trying to confirm and make the building handicap accessible for today's use.

Thank you. Unless you have any questions for me.

CHAIRMAN SALADINO: Is there anyone else from the public that would like to speak?

(No response.)

What is the pleasure of the Board?

MR. CORWIN: I make a motion to close the public hearing.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

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CHAIRMAN SALADINO: And I'll vote
Aye.

MR. TASKER: I abstain.

CHAIRMAN SALADINO: And one
abstention.

Item number 6. David, did you
have a request?

MR. CORWIN: Yes, I did, Mr. John.
I think we are going to have a long
discussion on Landmark Group, Manor
Place; so I would like to suggest that
we hold the public hearing for Miller
Family 2012, revocable trust first.

CHAIRMAN SALADINO: So you're
suggesting, your motion is to hold off
on the discussion, and have the public
hearing for Ms. Miller?

MR. CORWIN: I'm not making a
motion, I'm making a suggestion.

CHAIRMAN SALADINO: I'll take a
consensus of the Board.

Folks, what do you think?

MS. GORDON: I agree.

CHAIRMAN SALADINO: Ellen.

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MS. NEFF: In other words --

CHAIRMAN SALADINO: Hold the public hearing and then have the discussion.

MS. NEFF: I think since we just discussed this, why don't we finish this up?

MR. CORWIN: I think we're going to have a long discussion, and that's my problem.

MS. NEFF: All right.

MR. TASKER: Mr. Chairman, if I may, I would certainly be in favor of switching the agenda like that because I don't intend to participate or perhaps not to even have to stay for a discussion on that.

CHAIRMAN SALADINO: That's not happening.

MR. TASKER: Of course, I'm going to stay. He's telling me I got to stay.

CHAIRMAN SALADINO: You got to stay. We're gonna take attendance.

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MR. TASKER: Flipping the agenda would be fine by me.

CHAIRMAN SALADINO: So we're gonna take item number 7. Item number 7 is a public hearing for the application of Miller Family 2012 irrevocable trust for the property at 424 Fourth Street, Greenport, New York 11944.

The public notice is attached to the agenda for those that would like to see it.

The Suffolk County Tax Map number is 1001-6-8-18-1.

Is there anyone from the public that would like the speak?

MS. MOORE: Good evening, Patricia Moore on behalf of the Miller Trust, Miller Family Irrevocable Trust. Leueen Miller is here in the audience with me, and I will ask her to provide some additional information regarding the property since she is most familiar with the history of the property.

The notice of disapproval has many
Flynn Stenography & Transcription Service
(631) 727-1107

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points associated with it, but based on your site inspection, I'm going to try to very simply explain what our situation is.

Are you ready?

CHAIRMAN SALADINO: Actually, I have to apologize, and I'm going to ask the attorney, I opened the public hearing, and I didn't read the mailings before we opened the public hearing.

ATTORNEY PROKOP: My recommendation would be that we just pause the public hearing and acknowledge the jurisdiction which is the reading of the notices.

MS. MOORE: That's fine, no problem.

CHAIRMAN SALADINO: We have a letter from Ms. Moore residing in Southold, New York being sworn on the 10th of November, this is her letter, I personally placed the Board's official posting with the date of the hearing and nature of the application therein;

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and I have to mailings here. Is there is list or do I have -- okay.

We have Walter Burden (phonetic), Post Office Box 304, Greenport, New York; Darice Clark, 424 Fourth Street, Greenport, New York; the Northfork Housing Alliance, 116 South Street, Greenport New York; Karrie Robinson, 424 Fourth Street, Greenport, New York; Jean Stratton (phonetic), 424D Fourth Street, Post Office Box 483, Greenport, New York; Walter Tilford, 10 Oak Place, Bayville, New York.

That's all we have.

MS. MOORE: Thank you.

Let me start up by saying that this property has a house, a 17,000-square foot waterfront home that was built in 1870, and attached to it is a, I've called it a cottage, it's actually separate living quarters; it's historically been separately occupied living quarters.

In 1974, my client purchased the Flynn Stenography & Transcription Service (631) 727-1107

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2 property; the cottage was there, and it
3 was being occupied. It was occupied
4 previous to her purchase and it has
5 been occupied by the Miller family's
6 tenants for many years. While the
7 Miller family could not be there
8 permanently on the property, it was
9 helpful to have somebody living in the
10 cottage that would provide both
11 year-round housing for someone as well
12 as provide security so that someone was
13 always on the premises.

14 What happened is that in 2001, the
15 Village Board granted a conditional use
16 permit for the B&B for this property
17 which has a B&B known as Harbor Knoll.

18 And I have provided you the
19 brochure; you're all very familiar with
20 the B&B.

21 So the B&B has been operated there
22 on the property with the three rental
23 rooms under the B&B ordinance, and in
24 2000, after 2001, in -- trying to
25 remember the timeline, the building

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2 permit in 2001, I think it was, ten
3 years ago, 2007, can't do my math. Ten
4 years ago in 2007, my client applied to
5 renovate the attached cottage and put
6 in a building permit application. The
7 building permit application was
8 approved, it was inspected, electrical
9 inspection, building department
10 inspection, the rest; and when it was
11 actually approved, it had the sign off
12 and ready to be approved for a C of O,
13 it was discovered that the state code,
14 the State of New York has an
15 interesting little glitch to it; it
16 says that a B&B cannot be run at a
17 two-family residence. Well, this has
18 never been a two-family residence, it's
19 always been a single-family residence
20 with an attached living quarters;
21 however, your village code and the
22 state building code does not
23 distinguish a house that's
24 17,000-square feet with a small living
25 quarters that, I think you guys

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2 describe it as an accessory apartment,
3 it's just a matter of nomenclature,
4 it's separate living quarters.

5 What happened is at that point,
6 the building inspector, realizing that
7 the state code had an issue, wasn't
8 able issue a building permit; and they
9 have gone around and around for the
10 last ten years on how to solve that
11 problem.

12 We went to the State of New York
13 hoping that possibly we could get a
14 variance from the state code, but
15 unfortunately, it's a definitional
16 issue. The architect who handles the
17 state code just really felt that the
18 simplest solution here would be to just
19 separate the structures and create two
20 separate structure.

21 In this instance, after thousands
22 of dollars of renovating the cottage
23 and having it ready for occupancy for
24 the past ten years, she is faced with
25 the only corrective action being to

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2 physically cut the building so that it
3 has a separation and it's a physical
4 separation and the state code, Richard
5 Smith who is very helpful and you may
6 know of him, said it doesn't have to be
7 a big separation, any separation, so a
8 foot, an inch, he was not specific,
9 just separate it. So here we are, we
10 have the practical problem that we're
11 damned if we do, damned if we don't.
12 We have to separate the building.

13 You have been to the site, you saw
14 it is physically there, you can't pick
15 it up, you can't move it, and about the
16 only feasible solution here is to cut
17 away a small portion of the main house
18 which had historically been a utility
19 closet and half-bathroom. Mr. Miller
20 is not as mobile as he used to be, so
21 he spends most of his time in the great
22 room. For those that went inside, you
23 saw the great room. There is a small
24 half-bathroom there. Physically, the
25 only thing that can be accomplished is

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2 to cut the back piece of that
3 connecting portion of the building to
4 separate it. It is not something we
5 want to do, but that seems to be the
6 only solution. We can't appeal the
7 State. There is no method to appeal
8 this provision of the code.

9 Harbor Knoll B&B has been in
10 existence for many, many years, it has
11 a very good reputation, good following.
12 She doesn't want the give up her B&B.

13 The space has been improved now
14 after, you know, a significant
15 improvement, it had been living space
16 and you saw the improvements to create
17 the nicer bedroom, but otherwise it's
18 the same space with an outside porch,
19 but non-living space.

20 So after all is said and done here
21 with the many, with a lot of writing
22 with respect to addressing the
23 standards of an area variances, it is
24 simply that problem that we are trying
25 to address here. And the need of

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2 cutting the building creates other
3 issues with respect to village code
4 because the Village says, if you're
5 gonna have two buildings next to each
6 other, they have to be at least ten
7 feet. Well, we can't pick up the
8 buildings, we're not going the pick up
9 the buildings, you can only cut them so
10 much, and we're trying to cut away as
11 little as possible so as to not change
12 the integrity of either building. We
13 have come to one foot as a solution, so
14 that hopefully the bathroom, a small
15 part of the wall can be cut off, but
16 the toilet and I think the laundry,
17 maybe a toilet and sink can remain by
18 some repositioning.

19 I will have Ms. Miller put on the
20 record the history of the property
21 because she can tell you who was the
22 prior owner, if you wish to put that --
23 have any questions, and we'll address
24 any questions you might have.

25 CHAIRMAN SALADINO: Before you go.

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I don't know if I heard you. You said the building has been ready for use for the last ten years?

MS. MOORE: Yes.

CHAIRMAN SALADINO: So am I to understand that nothing has been done in that cottage for the last ten years?

MS. MOORE: Well, she has had an open building permit for the last ten years. She wanted to put somebody in there full-time because it's a --

CHAIRMAN SALADINO: So there's been no use in that cottage for the last ten years?

MS. MOORE: I want to say minimal, very minimal.

MR. TASKER: What is minimal?

MS. MILLER: Empty in the winter (inaudible) summer.

MR. TASKER: Occasional use?

MS. MILLER: (Inaudible) been able to really advertise to --

ATTORNEY PROKOP: Can we have her sworn?

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MS. MOORE: You need to put her --
you need to come here on the record
because they don't have a reporter and
you got to come here. Stand up.

AUDIENCE MEMBER: I heard from
Clerk Pirillo --

CHAIRMAN SALADINO: Hold it.
Julie.

AUDIENCE MEMBER: She's been in an
accident.

She was in a car accident, she is
okay. I just wanted to let you know.
I got a call from Clerk Pirillo.

CHAIRMAN SALADINO: Okay.
My question was, just so we're on
the same page. I heard your attorney
say that the building has been ready
for use for the last ten years but
because of a problem with a CO -- I'm
just -- so the building --

MS. MILLER: Let me try and
address that.

MR. CORWIN: Give your name.

MS. MILLER: My name is Leueen

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Miller, and I live at 424 Fourth Street
in Greenport.

I'd rather go into the history and
get to that, if I might. I mean, do
you have concerns if that would be
okay?

CHAIRMAN SALADINO: It's a public
hearing, you can say whatever you want.

MS. MILLER: Okay.

So my husband and I bought the
property in 1974 as our summer house.
We bought it from a Ralph Quinton who
was former mayor of Greenport and who
had his own real estate company. He
owned it for twenty years, and had it
on the market for a couple years before
we bought it. He a had secured permits
to subdivide the property into several
building lots, and when we bought the
property, there were two existing
structures within the property, within
that area as you come in the driveway;
and one was the former caretaker's
house which was on the water and the

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2 other was apparently, it was, I think
3 it had been the former stable which had
4 been beautifully converted into a
5 residence.

6 Shortly after we moved in,
7 construction for a house had -- an
8 owner who had bought one the subdivides
9 started to build his house and then
10 several years later, another house was
11 built. But during the initial years
12 that we owned the property, we were
13 only there on weekends or not even
14 sometimes; and some of the people who
15 occupied the two other existing
16 properties at the time were also not
17 there full-time. Despite hiring a
18 local watchman, we were broken into
19 twice, one quite seriously, taking
20 quite a lot of very valuable silver.

21 So from the start, shortly after
22 buying it, we recognized really the
23 need to have someone on the property,
24 so we rented the little, we call it the
25 cottage, and continued so we'd have a

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2 presence on the property, and we
3 continued to rent it year-round,
4 winter, part-time. You know, you rent
5 it and someone would break the lease
6 and be out of there; it was a nightmare
7 really; so we continued like that.

8 During that period, 1974 to 2001,
9 during that period, I was posted
10 abroad. I traveled extensively, and we
11 had a couple that stayed in the house,
12 not in the apartment, stayed in the
13 house; so they would be there when my
14 children had vacation and my husband
15 came down for weekends and so on, so we
16 had a presence there.

17 In 2001, I retired and we had a
18 couple who wanted to continue providing
19 service, so we applied -- we thought
20 they could help with the bed and
21 breakfast and applied for permits, the
22 Zoning Board came down, visited the
23 property, the cottage is right there.
24 The cottage, in fact, largely was
25 rented by local people. Even during

1
2 the 80s, early 80s, I think it was, we
3 were contacted by former mayor to ask
4 if we wanted to designate it as a
5 Section 8, the adjacent building which
6 we declined. Employees of the Village
7 lived there for periods of time, so it
8 was well known to the Village that this
9 little cottage was rented. It's very
10 small, it's basically a studio with a
11 kitchen and a bathroom. In 2007, a man
12 who had been renting it for a number of
13 years inherited a house and he left.

14 At that time, we decided that we
15 should, that really the cottage needed
16 to be upgraded and improved on, and we
17 applied for a permit to extend it,
18 enlarge it and renovate it; and we got
19 the permit. There were, I don't know,
20 five or six visits by the building
21 inspector down to see every stage of
22 its progress. We spent way over what
23 we thought we were going to spend on
24 it, we spent roughly 140,000 renovating
25 it, gutted it and basically put a lot

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of money into it.

Then when everything was supposedly ready, and we have a little form from the building inspector saying okay for CO pending electrical sign-off, and then nothing. Apparently, we're in violation, and we haven't been able to get a CO.

I'm on my second or third lawyer. I borrowed to renovate the cottage. Had I known at the time that we applied for the renovation that this was in violation of state or any other law, we would not probably have gone ahead, or we would have modified it or we would have had the option to do a number of thing.

Likewise, when we applied for the B&B, if the Village or the Zoning Board in inspecting everything, had told us you can't have the B&B with the cottage, I might have not gone ahead with the B&B and renovated the main house and the property considerably.

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2 So here we are since 2007, we're in
3 violation of village code.

4 But at the same time, I need to
5 try and get some help in paying for the
6 expenses that we have been put to, so
7 from time to time, I rented it; but
8 really largely not; but I can't say I
9 never did. I did in fear that somehow
10 the Village would come down and eject
11 the people.

12 I mean it's been a nightmare. I
13 have hardly slept, and I think my
14 lawyer will contest to the nervousness
15 and the fear and horribleness of all
16 this. And now we're down to this point
17 where we have to cut the building in
18 half. I mean we have to separate both
19 buildings.

20 I still want -- someone had
21 suggested, couldn't it be part of the
22 B&B. No. I want to have it as a
23 separate -- I want to be able to have a
24 year-round person in there should I
25 need it. Both my husband and I are

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2 moving on in age. I'm not sure, you
3 know, where we're going with all this,
4 but I want to have the flexibility of
5 having someone, ideally year-round in
6 the cottage. There is certainly a need
7 in Greenport for someone to find a
8 lovely dwelling. I mean, there is a
9 real shortage, as I understand it, of
10 year-round rentals; and if that's not
11 possible, at least making back some of
12 the money we have spent and put out all
13 in good faith. We followed all the
14 instructions to the letter, and it's
15 been like a bad dream.

16 So here we. We're going to now
17 spend more money dividing the building
18 if that's approved; but we cannot
19 continue in this situation of no CO, no
20 legal use of the premises; so I'm
21 asking you for your understanding on
22 the predicament we find ourselves in.

23 This is a historic building. It's
24 been, the cottage has been rented for,
25 I don't know, I believe since mid-50s

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or thereabouts, 1950s that is.

I am open to clarifying any questions you have.

CHAIRMAN SALADINO: I have a question.

You said the house was approved for use as a B&B, an accessory use as a B&B in 2001.

MS. MILLER: Yes.

CHAIRMAN SALADINO: Was the cottage occupied?

MS. MILLER: Yes.

CHAIRMAN SALADINO: It was occupied?

MS. MILLER: Clearly visibly occupied.

MR. TASKER: Occupied on what basis, full-time, part-time?

MS. MILLER: Full-time.

MR. TASKER: Temporary, short term?

MS. MILLER: Year-round at that time.

MR. TASKER: What was your vacancy

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rate?

MS. MILLER: Hum?

MR. TASKER: What was your vacancy rate?

MS. MILLER: At that time, it had been occupied for about five years by one single gentleman who left in 2007 because he inherited a house, and I think everybody knew. I mean, he lived there for several years and before that, there was a variety of different people renting year-round, part-time. Greenport in those years, wasn't as in demand as it is now, so it was sometimes hard to get decent people, reliable people to rent the apartment, well to rent, basically.

CHAIRMAN SALADINO: And conversely Greenport wasn't, there wasn't as much oversight then as there seems to be now.

Two things. One, I have a letter that I'm gonna read when Mrs. Miller is done. If my colleagues have any other

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questions, after that, I'm gonna ask building inspector if she can give us her perspective of what's going on here also.

Arthur.

MR. TASKER: Continuing the question concerning usage of the so-called cottage. As I mentioned to you when we met, I live in Peconic Landing, I have a free-standing single-family house there that I live in and they're called cottages, which is nothing more than a descriptive word, it has nothing to do with use.

Since the troubles started around 2007 with the certificate of occupancy, how has the accessory apartment been used?

MS. MILLER: Minimally.

MR. TASKER: And I asked you earlier if you could quantify what minimally means.

MS. MILLER: Well I --

MS. MOORE: Whatever she says

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here, you know, as long as she is not going to be held in violation because of her testimony here --

MR. TASKER: She did what she did.

MS. MOORE: Well, in all fairness to her, we have --

MR. TASKER: There's no Fifth Amendment question.

MS. MOORE: There kind of is.

CHAIRMAN SALADINO: She has an attorney.

MS. MOORE: Yes, she does.

But we're not trying to hide anything, what we're trying to do is point out that this was -- it was used consistently. She got a building permit, she didn't just make the changes without a building permit. She got a building permit. The building permit actually said it was a renovation of a cottage, that's the words on the permit.

MR. TASKER: What's in a name?

MS. MOORE: Well, it's living

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2 space, a cottage generally,
3 nomenclature, and it depends on the
4 year you're describing it, but a
5 cottage is a self-contained living
6 quarters. In fact, the reason that
7 we're having this issue is because it's
8 considered a dwelling and because it's
9 considered a two-family dwelling
10 because of the living space that's
11 connected, physically connected to the
12 main house; so right now it's a
13 two-family where, I think most of us,
14 common sense would tell us a two-family
15 in most scenarios is equally sized
16 structures, not a 500-square foot
17 cottage and a 17,000-square foot house.
18 It's a little bit skewed, but we're
19 just arguing semantics at that point.
20 It is what it is. It's a 500-square
21 foot living space that you described as
22 an apartment. Okay, that's about
23 equivalent to a nice-sized apartment or
24 a Peconic Landing cottage, they're
25 about --

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MR. TASKER: 1,400-square feet.

MS. MOORE: 1,400-square feet,
they're a little more comfortable.

MR. TASKER: More expensive too.

MS. MOORE: A lot more expensive.

MS. MILLER: I mean, I have ten
bedrooms in the house, ten good-sized
bedrooms, why would I go and spend over
100,000 on renovating the cottage
first. I like to keep my property
pristine, and it needed work, so I
spent more than I originally intended
to, but I mean, why would I do all of
this if there was no understanding that
it was going to be for rent. I mean,
it wasn't --

What?

CHAIRMAN SALADINO: Well, first of
all, we can't answer that. Second of
all --

MR. TASKER: You tell us.

MS. MOORE: We don't know.

CHAIRMAN SALADINO: We can't
answer.

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MR. TASKER: Why would you do this without knowing if it was permitted?

MS. MILLER: We got a permit.

MS. MOORE: That is a presumption of being permitted, you get a building permit from the Village, it's a permitted use; otherwise, they would have denied it.

MR. TASKER: I disagree with that.

MS. MOORE: I would legally disagree with you.

It got a permit. It was not done in the middle of the night. It was not a renovation to the cottage without proper permits, it was done all legally and properly.

MS. MILLER: And inspected.

MS. MOORE: And inspected.

CHAIRMAN SALADINO: You can do anything you want. You can do anything you want until it comes time to get a CO and define it as a --

MS. MOORE: No. It was applied for as a renovation to the cottage. It

1
2 got a building permit as a renovation
3 to a cottage. It was well known by the
4 community by its history that it was a
5 separate living quarters, so we're
6 trying to make excuses on the Village
7 side that, you know, but unfortunately
8 nobody knew that this state code
9 created that unique interpretation that
10 a B&B cannot be a two-family; and
11 that's the only reason we're here
12 because of the fact that it was, it was
13 suddenly redefined as a two-family
14 when, in fact, it's always been a
15 single-family with an accessory
16 cottage.

17 MR. TASKER: Suddenly redefined.

18 MS. MOORE: It was redefined --

19 MR. TASKER: Suddenly.

20 MS. MOORE: It was. Nobody ever
21 applied, nobody ever mentioned, nobody,
22 even the Village Board when they
23 granted the B&B permit, nobody called
24 it a two-family. That was quite unique
25 to call this structure two-family.

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Again --

MR. TASKER: Was the presence of second dwelling unit made clear at the hearing for the B&B approvals?

MS. MOORE: Well, they made a full inspection of the property. You have to believe that they see what they see. You have to believe that they have been living in the Village --

MR. TASKER: You'd like to think so.

MS. MOORE: So here we are ten years later, we're just trying to correct a situation. It's not pointing fingers, it doesn't, it really doesn't benefit any of us, on our side certainly to point fingers, on your side to point fingers, it is what it is.

We are here facing the circumstances that we have been presented with and to maintain everything and status quo requires us to come and physically cut the

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building.

MR. TASKER: Let me return to my question that started this whole momentum here, and that is, what was the frequency of occupancy of the so-called cottage? From the period of time when the CO was denied and your troubles began; what was the frequency of occupancy?

MS. MOORE: Let me ask, what is the point of that question?

MR. TASKER: You'll see.

MS. MOORE: No, I'd like to know before --

MR. TASKER: I have another question to follow up depending on the answer.

MS. MOORE: You're trying to get that we don't have continuous use, is that what you're getting to?

MR. TASKER: No.

CHAIRMAN SALADINO: Wouldn't it be just simple to either answer the question or not?

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MS. MOORE: It depends on the
motive of the question.

CHAIRMAN SALADINO: He has the
right to ask it, you have the right to
say, no I don't want to answer.

MS. MOORE: Whatever you say here,
the Village attorney is watching
carefully, and he'll enjoy our matter
in Court.

CHAIRMAN SALADINO: Are we already
going to Court.

MS. MOORE: (Inaudible) in Court.
We're trying to get this resolved, so
we don't know to go back --

CHAIRMAN SALADINO: I thought we
were talking about judicial review.

MS. MOORE: No, (inaudible) --

CHAIRMAN SALADINO: Oh, I thought
we were already decided that we were
going for judicial review. I
apologize, I misunderstood.

MS. MOORE: No, we're in the code
violation --

CHAIRMAN SALADINO: We don't want

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to know about that.

Arthur, I'm sorry.

MR. TASKER: That's all right.

CHAIRMAN SALADINO: Did you have something else?

MR. TASKER: Yeah.

Is the unit offered for rent?

MS. MILLER: Right now, no.

MR. TASKER: Has it been during the period of 2017?

MS. MILLER: Yeah, it has rarely, but at times, yes.

MR. TASKER: Rarely.

I noticed when we visited, and also on your Exhibit A, the photographs, the group of photographs, you show a picture of the cottage, this last one here in your series of photographs, it shows the side entrance to the cottage and there is a sign on it that says "cottage" hanging from it.

MS. MILLER: Why did you take -- what are those from?

MS. MOORE: Let me see if I can --

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MR. TASKER: Last one in your photographs on Exhibit A.

MS. MOORE: You mean by description on the bottom?

MR. TASKER: No. The photograph shows a sign --

MS. MOORE: Yes. Okay. There's a little sign --

MR. TASKER: -- on the door. This little sign, it's about two feet by two feet, that little sign.

MS. MOORE: Okay.

MR. TASKER: I noticed when we visited the property when I was by the swimming pool and we saw the cabana, there was a sign about the same size on the cabana that said "cabana," and we also noticed that in the cabana there was a bed.

MS. MOORE: A what?

MR. TASKER: A bed.

That is suggestive of providing directions to people who have come and ended up in the driveway of house to

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get to the unit they're going to sleep
in. Can one --

You have a look of bewilderment.

MS. MILLER: (Inaudible).

MR. TASKER: Why are the signs
there?

MS. MILLER: Why is what there?

MR. TASKER: Why are those signs
on those buildings?

MS. MILLER: It's my decorative
sense.

The cabana and the pool, that
whole area is private; it's not open to
the public.

MS. MOORE: It's not the B&B.

MS. MILLER: The pool is not
available to guests, it's only for
private use.

MR. TASKER: Therefore, those
signs are for your own edification?

MS. MILLER: Yes.

MR. TASKER: Okay.

I'll leave that for the time
being.

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CHAIRMAN SALADINO: I have question.

MS. MILLER: There is no advertising of the pool. There's no advertising. The pool is strictly for family; it's basically my use.

MR. TASKER: Your advertising brings up -- did we want to pursue that?

CHAIRMAN SALADINO: Did you want to ask that question?

MR. TASKER: Since they brought it up.

When you advertise for your B&B, do you itemize, itemize is the wrong word, do you innumerate the different units that are available?

MS. MILLER: Um-hum.

MS. MOORE: There's an advertising brochure.

MS. MILLER: You mean the rooms?

MR. TASKER: Well, for the B&B.

MS. MILLER: Yes.

MR. TASKER: They indicate that

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there are the permissible three rooms available, correct?

MS. MILLER: Right. Yes.

MR. TASKER: Well, I'm still a little bit puzzled by signs on buildings.

CHAIRMAN SALADINO: Was the cottage ever occupied full-time from 2007 on after you renovated?

MS. MILLER: No.

CHAIRMAN SALADINO: There was never a full-time occupant?

MS. MILLER: No.

MS. MOORE: She couldn't, there was no CO.

CHAIRMAN SALADINO: You just got through telling us that you rented to transient roomers.

MS. MOORE: No, we have rented but not for full-time, year-round occupancy.

CHAIRMAN SALADINO: Well, you interpreted it. My question was simple, did you ever rent it full-time?

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MS. MOORE: By full-time, are you describing full-time, you mean year-round?

CHAIRMAN SALADINO: As opposed to short-term, as opposed to transient.

MS. MILLER: No, because to be honest, I was scared and --

CHAIRMAN SALADINO: Okay.

MS. MILLER: -- lease for someone for a year and next thing, they'd be thrown out or something, so the answer is no.

CHAIRMAN SALADINO: That's fine.

But you had no qualms about renting it to transients on occasion?

MS. MILLER: Short term, I mean, very short term and minimally and with all the --

CHAIRMAN SALADINO: So we're qualifying what's legal and what's not.

MS. GORDON: When you say short-time, do you mean like for a week or a month?

MS. MILLER: Yes, a week.

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MR. TASKER: But not a month?

MS. MILLER: Not a month, no.

MS. GORDON: It does make it sound more like it's part of the B&B, I think that's part of what we're --

MS. MILLER: Mostly, I don't rent the B&B for a week. People come for a weekend, for a day or two days, rarely do I ever get anybody for --

CHAIRMAN SALADINO: But there is no restriction, I don't believe there's any restriction in our code --

MS. WINGATE: Thirty days.

CHAIRMAN SALADINO: Thirty days, so a week would fall within --

MS. MOORE: (Inaudible) food and --

MS. MILLER: Yes, breakfast, yes.

MS. GORDON: When you have someone for a week in the cottage, do you serve that person breakfast?

MS. MILLER: No. They never get breakfast.

MR. TASKER: So there never came

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an occasion, let's say, when someone phoned you to see if there is a B&B room available on which you might have said, well, we're limited to three and they're all booked, but we have a cottage in the back we can rent you?

MS. MILLER: On occasion, I might have done that, yes, but not much.

MR. TASKER: Thank you.

MS. MILLER: I mean if you had an outstanding, you know, debt of that kind and --

MR. TASKER: So this is all about making money, isn't it?

MS. MILLER: No, it's not about making money.

MS. MOORE: That's is a little bit insulting. It's not about making money. It's about spending over a hundred thousand to make the repairs to an existing building, to an existing cottage and then be told that you can't rent it because of the B&B operation.

MR. TASKER: I'm sorry, but Ms.

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Miller made a big deal about how she had spent all this money, and she wasn't being able to make it back; thus, my question, it's all about making money, isn't it.

MS. MILLER: I would like to add that the cost of upkeep on Harbor Knoll is so high, that I don't think I make money, period; I barely cover costs.

MS. MOORE: What are your taxes?

MS. MILLER: My taxes are 20,000, you add that to waterfront insurance and so on, and if you --

CHAIRMAN SALADINO: Ms. Miller, you can't put a price on a --

Having said that, having said that, I'm going to take a five-minute recess. I have, we have to use the bathroom, and I have to talk the attorney for one second; so if it's okay with everyone, we're going to take a five-minute recess.

(Whereupon, a recess was taken at this time.)

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CHAIRMAN SALADINO: If you guy are

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MS. MOORE: Well, I would just like to bring us back to what the issues are here because we kind of went way of field in some of the questioning and issues because this is, the standards are what we should be looking at on whether we are changing the character of the neighborhood, that, clearly, we are not doing. If anything, we are trying to preserve the character because we're trying to preserve the house with the three-bedroom B&B and the cottage; and the Village, the build inspector can attest to this, every home on this, almost every home on this block -- And I will point out that the road actually is owned by my client, and she exclusively maintains it and repairs it and takes the snow removal and so on. The homes, including Mr. Tasker, who it was your former home, converted their

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2 homes to two-family. So as far as this
3 particular property goes, it has been
4 maintained and she has been penalized
5 because of the fact that at the time,
6 and we just, we don't know what the
7 Boards knew at the time, but we are
8 presuming based on the fact that
9 nothing was hidden, that it was granted
10 as a B&B, and the cottage was there,
11 and it was fully occupied at the time.
12 She just merely wants to keep what she
13 has worked so hard to maintain.

14 So as far as changing the
15 character or detriment to nearby
16 properties by granting this variance,
17 we are merely making a physical cut in
18 a building which is surely detrimental
19 to my client, not to anybody in the
20 neighborhood, other than to my client.
21 We're making that request here.

22 As far as the other standards,
23 I've laid out for you in writing how we
24 do not impact anybody in the
25 neighborhood. Can a benefit be

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2 achieved any other way? Believe me, we
3 would have gone a different route if it
4 were possible. We wanted to get an
5 appeal from the State. It's
6 impossible, that is just is not
7 practical. We don't want to give up
8 the B&B. Harbor Knoll B&B has been in
9 place for many years, obviously, that's
10 an existing business that wants to
11 continue. The cottage has been rented,
12 she now invested a tremendous amount of
13 money to make it more comfortable and
14 safe for whoever would occupy it; so
15 there is no other reasonable method,
16 other than physically cutting the
17 building.

18 So we go back to the standards,
19 all these other questions, are you
20 making money, has it rented, has it not
21 rented, those are completely irrelevant
22 issues.

23 CHAIRMAN SALADINO: Ms. Moore,
24 before we -- it's a public hearing, we
25 can, the members can ask questions and

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the applicant can give us the history of the property, who lived there, Section 8 requests and stuff, things that aren't relevant to this application. That's what we do here, we listen.

MS. MOORE: Well, I understand. I also don't want to have questioning that really upsets my client and leaves her feeling like she's the villain, when, in fact, she has been somewhat of the victim here by the fact that permits were issued without knowledge that the State --

CHAIRMAN SALADINO: But we don't want to point any fingers?

MS. MOORE: We don't want to point fingers, but here we are --

CHAIRMAN SALADINO: But we're penalized --

MS. MOORE: But we are being penalized, yes.

CHAIRMAN SALADINO: And we're the victim.

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MS. MOORE: I guess, a little more understanding in the questions that you're asking in the sense that are they relevant questions. Yes, you can ask any question like what's the color of the sky, but can we at least have the questions be relevant to the variance and we will address them from now until 12 o'clock at night.

ATTORNEY PROKOP: I have a question.

Did you ever file, do you have an application pending with the State for a variance?

MS. MOORE: Yes. I told you that last -- yes, we filed an application to the State. In my conversations with the State, with both the attorney who differs to Richard Smith and to Richard Smith, the advice that we got is, please, just do a cut of the building, separate them.

ATTORNEY PROKOP: That wasn't my question, did you --

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MS. MOORE: Yes, I applied. They didn't give me a hearing.

ATTORNEY PROKOP: How do you know what my question is if you didn't let me ask it?

MS. MOORE: But you asked me the question.

ATTORNEY PROKOP: Do you have an application pending right now with New York State?

MS. MOORE: We have an application filed with New York State, yes. What they're doing with it, I don't know.

ATTORNEY PROKOP: Okay. Thanks.

MS. MOORE: This will hopefully resolve it, so we don't have to pursue New York State because the sense I got from New York State is, our application is possibly a jurisdictional issue that can't be resolved by the State.

ATTORNEY PROKOP: Did somebody locally tell you that or somebody in Albany?

MS. MOORE: No, Albany.

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My communications have been with Albany on this.

We'll answer any other questions you have.

CHAIRMAN SALADINO: I have a letter from a Karrie Robinson and Walter and Candice Tilford that I, kind of, should have read into the record.

Would you like to read your letter?

MS. ROBINSON: Karrie Robinson, 424 Fourth Street. I would like to present my alternative facts.

Before I read the letter, I would simply like to say, I live across the road, it's a fifteen-foot road, I have an eleven-foot turnaround, so it is very crowded. For me, the issue is congestion.

There was a wedding business that Mrs. Miller ran five years ago, the advertisement was for the B&B and the cottage, the Enchanted Cottage, it was a package. We fought that. There are

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2 people in that cottage. There are
3 people with dogs in that cottage. It
4 was rented in the summer pretty
5 frequently. I don't have an objection
6 to that. What I have an objection to
7 is the five variances they are asking
8 and how that will affect our lives, so
9 let me proceed.

10 I am representing myself and my
11 neighbors Walter and Candace Tilford.

12 We strongly object to the granting
13 of the numerous and substantial
14 variances that are being requested.
15 Requesting these variances is a clear
16 and blatant attempt to skirt around the
17 codes and regulations that govern B&Bs
18 in the Village of Greenport which allow
19 a maximum of three rooms. These codes
20 and regulations were adopted to protect
21 the residential character of the
22 neighborhood and the property rights of
23 residents surround the B&Bs.

24 The presence of Harbor Knoll B&B
25 which is located on a very narrow

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2 right-of-way that is shared with other
3 homes has already negatively changed
4 the character of the neighborhood.
5 There is increased traffic from B&B
6 guests coming and going, trucks making
7 deliveries and a loss of privacy and
8 quality of life with strangers
9 constantly around.

10 For me personally, the exit to the
11 parking lot is across from my driveway.
12 I have to back out of my driveway when
13 people are coming out of that exit.
14 Not only that, I'm probably about -- I
15 must be thirty yards from the street,
16 people come who are looking for the B&B
17 and people who live on the road come
18 around that corner to enter the road,
19 there is no regulation in terms of
20 speed, I am often walking with my dog
21 on that road, and there are people who
22 do not yield pedestrians. That's going
23 on all the time.

24 In addition, ambulances, any kind
25 of vehicle that needed to get down the

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2 road, there are vehicles coming out of
3 the exit and the entrance a lot in the
4 summer, it quiets down a little bit in
5 the winter; the fall, spring and summer
6 are pretty, pretty busy.

7 So it is for these reasons that we
8 are opposed to the granting of all the
9 variances that would potentially allow
10 the B&B to add more rooms over the
11 three that they are currently allowed
12 to have and give our residential
13 neighborhood an even more commercial
14 feel and further deteriorate our
15 quality of life.

16 Renting three rooms with ten cars
17 in the parking lot, if that's what's
18 happening now, what could it be if we
19 expand that. It really has affected
20 our quality of live and it's dangerous.
21 That's a very, very narrow road to have
22 all this traffic, so we object, and I
23 hope you will take that into
24 consideration.

25 There is no question that Mrs.

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Miller has beautified the road, the area is wonderful, but it affects our quality of life daily and I object strenuously.

Thank you for listening.

CHAIRMAN SALADINO: Thank you, Ms. Robinson.

MS. GORDON: I just want to ask a question about your concern about the, sort of, increase in -- if this were granted and the buildings were separated, and the applicant was then able to rent for longer-term periods, wouldn't there be a decrease in the amount of traffic?

MS. ROBINSON: Well, that would be so if actually three rooms were being rented. There are many more than -- from my estimation, and that area is visible to me, there are many more than three rooms that are rented. There is lot of traffic in that area, so again, with all due respect, what prevents her from renting, expanding on that

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cottage. She would have to get a variance for that, but if we don't go by the rules that exist now, what makes us go by the rules if we grant what she would like?

MS. GORDON: But it sounds as though your objection has nothing to do with the separation of the cottage.

MS. ROBINSON: That's only one of the things she's asked for. There are five variances she's asked for.

MS. GORDON: But it's all about the separation of the cottage from the main building.

MS. ROBINSON: Okay.

But what I'm saying is, I believe there would be more people renting the cottage, more people in the building.

I don't know, I mean, you guys have to regulate it.

CHAIRMAN SALADINO: Wouldn't it just be, wouldn't it be -- I'm sorry, Dini.

Wouldn't it be, you're saying now

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that the cottage is rented fairly often, spring, summer, fall as a unit of, a as a room of the B&B.

MS. ROBINSON: Right.

CHAIRMAN SALADINO: So different people show up --

MS. ROBINSON: No, it's not as a room of the B&B, this is in addition to the three rooms of the B&B.

CHAIRMAN SALADINO: In addition to the B&B?

MS. ROBINSON: Yes.

It's a lot of traffic.

CHAIRMAN SALADINO: That's what I meant.

So when people show up for that, to Harbor Knolls and they rent the cottage or they rent a room inside the main building, I presume they're coming with a car, so they're gonna park and use the parking lot, I'm thinking of what my colleague Dini said, so if it was rented full-time by a couple, now you would have two cars, or assuming

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they have one car, one car, but it would just be the same car. Every weekend, you see a different car if they rent the cottage --

MS. ROBINSON: In addition to the three cars for the rooms, plus in addition to the people who live there, plus all the trucks that are coming, it's changing the nature of our road.

CHAIRMAN SALADINO: I understand the premise. I'm just trying to get it clear in my head how renting it full-time would reduce the amount of cars in the parking lot. In my mind, I'm not sure if it would, it would just reduce --

MS. ROBINSON: People who live in a cottage, I don't know, they have company, all I know is it's a very narrow space and it's dangerous. It's dangerous for all of us.

CHAIRMAN SALADINO: We were actually there this afternoon, so --

MS. ROBINSON: Well, try to get in

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and out, and you know that road, you can't have two cars on it. People walking on the road are in danger when people turn off that road and come speeding down. There at least needs to be some kind of regulation on that; and people need to yield to pedestrians on the road and they don't.

CHAIRMAN SALADINO: We can't make rules on a private road, especially the Zoning Board can't make any rules on a private road, I don't know --

MS. ROBINSON: I want you to understand that it affects our quality of life the way it stands. We never objected to the B&B, it's just the rules ought to be respected, three rooms.

Thank you.

CHAIRMAN SALADINO: We're gonna hear from Chatty before we hear from the building inspector.

MS. ALLEN: Chatty Allen, Third Street.

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2 One of the variances, number 1
3 states right on there, proposed
4 changes, yadda, yadda, yadda is not a
5 permitted use. Well, that should be
6 okay.

7 What really concerns me is
8 separating these. From the way I'm
9 reading this, I'm not a lawyer, I don't
10 understand all these codes and the way
11 that they're written sometimes, but to
12 me it is reading, if you separate these
13 two buildings, these two residencies,
14 there's no regulation anymore, that's
15 what it, to me is how this reads,
16 proposed changes to existing house
17 create a condition where the detached
18 accessory apartment may no longer be
19 subject to limiting occupancy of the
20 bed and breakfast regulations of the
21 village code creating more transient
22 roomers than allowed by code.

23 Now I understand they went through
24 all this to do the right thing, but
25 like we all know, laws do change, and

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2 we have to abide by the laws when they
3 change. You build a house and it says
4 you have to have this, this and this;
5 fifteen, twenty years down the road,
6 now they're saying, now you have to
7 have this, this and this and you have
8 to abide by what those new changes are.

9 Maybe when originally the B&B was
10 approved, nobody really looked. I
11 haven't been down there since I was a
12 little kid, so I don't actually
13 remember what this whole structure
14 looks like. I'm confused. To me it
15 sounded like an efficiency with like a
16 living room and a bathroom, and then
17 I'm also hearing it being talked about
18 is there a bedroom in there, is there a
19 living room, bathroom, kitchen. I
20 don't know what the size of this
21 cottage is.

22 When I initially, this first
23 started and they said to detach the
24 buildings, I literally thought the
25 cottage was being picked up and moved

1
2 to another part of the property because
3 apparently this is a large property.
4 But to come in and say, our solution
5 is, we're just gonna cut a foot off of
6 the building, and then they'll be
7 separated. Well, by doing that little
8 tiny bit, it's more than just these
9 variances that are on here because now
10 you have to have -- where are your
11 setbacks? Now there's two separate
12 dwellings which all need their setbacks
13 and everything else that go along with
14 it, so it's more than what I'm reading
15 on the paper.

16 Like I said, I don't know all the
17 codes, but to me you're opening more of
18 a can of worms by letting them take
19 just the foot off and approving
20 everything. You heard from someone who
21 lives there who is seeing firsthand.
22 Sometimes when you see firsthand what's
23 going on things are different than what
24 it appears on paper.

25 They want to add one more room to

1
2 the B&B, well then do they have the
3 proper parking, I know what young
4 couple went through with the lasers and
5 everything to make sure the rooms were
6 the exact size and everything, you
7 know, I don't see that. I mean, are
8 they gonna have do keep coming back if
9 this is allowed for them to literally
10 cut a foot in between the two
11 buildings. To me this seems like it's
12 opening more of a can of worms than
13 anything else; and to throw it on the
14 Village's lap saying, well the State is
15 already telling us, no, they're not
16 gonna do anything, so basically you
17 need to do this for us. That's not how
18 the law works, and the quality of life
19 and the people that are living there
20 need to weigh in on this and you need
21 to take how they're living into
22 consideration. No, we can't always
23 control everything around us, we do
24 deal with noise and everything else,
25 but when you go through your little

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checklist, this is a self-made issue that could be resolved by not renting that or possibly opening it up for that fourth room for the B&B.

To me, I feel it should not be granted.

Thank you.

CHAIRMAN SALADINO: Thank you, Chatty.

I'm gonna ask the building inspector to give us the perspective of the Building Department.

Are you okay with that?

MS. WINGATE: I can't speak for what went on before December 2005 when I started working for the Village, but I do have access to the files and have gone through them on many occasions.

The certificates of occupancy for the house call it a one-family, so somewhere between having the certificate of occupancy and having accessory apartment, separate living quarters, whatever you want to call it,

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there's a jump there. Okay.

They did the right thing, they give me a set of plans. I wrote a building permit for, they were not repairs to the cottage, the cottage was in beautiful condition when they started the renovation. It was about adding a porch and adding a bedroom for more space to the cottage.

Oh, the word cottage, in my opinion, is an architectural style. It's not an occupancy, it's a style, okay; so call it whatever you want.

So in 2001, when they applied for B&B, it was not done by the Zoning Board, so the Zoning Board was not there. B&Bs are a product of Planning Board review. Planning Board typically does not do site plan. I think that the time you're thinking about the Zoning Board was when you asked for the pergola and the Zoning Board went down to give you permission to have the pergola because it needed Zoning Board,

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and the swimming pool. So, yes you have had the Zoning Board there, but not for the B&B.

AUDIENCE MEMBER: (Inaudible).

CHAIRMAN SALADINO: We're gonna do one person at a time.

MS. WINGATE: Again, I can't speak for 2001.

So the Planning Board, and I don't have the application for the B&B; I just have bits and pieces of it. I have a document that says the Millers went through the list of requirements for the B&B, and it says they will have three rooms. And there's photographs of the rooms in the file that she wanted to use for the B&B as well.

So when we were wrapping up the cottage, I'm looking at the photographs of the three rooms, and I'm looking at my notes for the cottage, and all of a sudden, my first thought was, this is fourth room. I presented that, she says it's not a fourth room, it's a

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separate thing.

For years, I struggled with it's not a fourth room, and then it occurred to me, if it's got a kitchen, it's an independent living space. It's a two-family house. It was like ta-da, the light went off, now I finally understood.

Very clearly in New York State, you can only have a B&B in a one-family house, so now we really have a situation where it's not a fourth room, and it's an independent dwelling unit and it doesn't have a CO.

To complicate matters further every year, every summer, I go on the internet, looking at, especially since Airbnb, RBBO, HomeAway, these are all different sites you can use. I have pages and pages through the years of the Enchanted Cottage being marketed on the internet all the time. So ever since 2009, which the permit was in 2007, the letter went out 2009 saying

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2 this can't be what we this think it is.
3 It's been a problem since 2009, so we
4 have three rooms in the main house, we
5 have the extra room that doesn't fit
6 with our code very well.

7 The State called me and told me,
8 they won't even hear this because it's
9 a problem of definition. The
10 definition of a B&B is a one-family
11 house, so they're not going to give a
12 variance on a definition. A definition
13 is a room size or a driveway width, but
14 they're not going to give a variance on
15 the definition.

16 Also, I did happen to notice all
17 the signs as well as you Arthur. The
18 sign that I thought was most
19 interesting was the sign on the outside
20 bathroom which says toilet, so that
21 clearly wasn't for residential use; but
22 that was an interesting find today, and
23 then I happened to go back to the file
24 to realize that there are no building
25 permits for an outside toilet either.

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So we have multiple things
compounding.

CHAIRMAN SALADINO: Would you tell
me approximately when -- I should have
interrupted you, but I didn't want to
interrupt you because now --

MR. TASKER: You can't remember.

CHAIRMAN SALADINO: I can remember
the question. I wanted to know the
timeline when you went ta-da, could you
tell me approximately what year that
was?

MS. WINGATE: Not that long ago,
actually. Again, the problem really --
I think the first violation was written
in 2009 -- Well, here, we have a whole
file of violations.

CHAIRMAN SALADINO: Have they been
adjudicated or they're still pending?

MS. WINGATE: They're still
pending.

This is all part of looking for
resolution.

CHAIRMAN SALADINO: Are you saying
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here now that it's your understanding that, what you know and what we heard from the neighbor is kind of contrary to what we heard about the frequency of rental of that space being rented?

MS. WINGATE: I could only speak for my own, for myself. If I get on the internet and I go to book the room at any period between Memorial Day and Labor Day --

CHAIRMAN SALADINO: It's available.

MS. WINGATE: -- it's available. I haven't sat there and changed days, I pick one. I try it once, you know, but I have pages and pages and pages.

There is also a pull-out sofa in if living room, so we have one bedroom sleeps two, but there's a queen-size convertible in the living room, so we're sleeping four as of this summer.

CHAIRMAN SALADINO: So even if that was part of the B&B operation, four would be --

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MS. WINGATE: It's limited to six folks, you know, and you got --

MS. NEFF: Three rooms, six in three.

MS. WINGATE: Six in three rooms, that's correct.

MR. TASKER: So even if this was three, it would be impermissible because it's got space for four.

CHAIRMAN SALADINO: Well that's -- Arthur, we don't -- we can't --

MS. WINGATE: I have spent enough time on Airbnb, RBBO, HomeAway to know that a house that has two bedrooms can still sleep six.

CHAIRMAN SALADINO: We're not talking about that right now, we're not --

MS. MOORE: I want to make sure that we're clear on the record, she said every time she -- if I understand what you just testified to, that on the internet, you kept applying, trying to rent the room --

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MS. WINGATE: And it was --

MS. MOORE: Well, you looked for availability, and every time you looked, it was available, so that means that --

MS. WINGATE: No, it was not available.

MS. MOORE: Oh, you said available.

MS. WINGATE: I'm sorry.

MS. MOORE: Okay.

MS. WINGATE: In the summer, they are booked on weekends and it's --

MS. MOORE: But we're not asking for a B&B in that space.

(Whereupon, Ms. Wingate and Ms. Moore spoke simultaneously.)

CHAIRMAN SALADINO: We are asking --

MS. MOORE: I mean, we're not asking --

CHAIRMAN SALADINO: -- but what we are asking for is for an accurate assessment of what exactly is going on

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there; that's all we asked for.

MS. MOORE: Okay.

An accurate assessment is that it could be rented as independent rental space.

CHAIRMAN SALADINO: No. That's not the question.

MS. MOORE: But that's what it's always been and that's what she would like to continue, and if she wanted to make a B&B out of it. There would a different mechanism to do it, which is you go to the Planning Board, you may have to go to the Zoning Board and ask to convert from three to what the State allows, which is five, maximum five, but that's not what she's asking for.

MS. NEFF: If I could --

MS. MOORE: Yes.

MS. NEFF: Somewhere I heard, and I think I also read in these papers that a B&B must be a one-family house.

MS. MOORE: Correct.

MS. NEFF: But you have the

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separate thing, and you used the expression several times, a two-family house, so that's the problem.

MS. MOORE: It's the problem because a ah-ha moment she had, as you described it ah-ha --

MS. WINGATE: It was an ah-ha moment.

MS. MOORE: Well, it was an ah-ha moment that she, that Eileen said, it's a two-family house. Now, that was her ah-ha moment, but all prior to that, every CO has always called it a single-family house.

MS. WINGATE: It's my opinion that the initial application to be a B&B was flawed because it was dishonest because it was a two-family house at the time. There was --

MS. MOORE: I don't know that you can say dishonest because at the time when the B&B application was made, nobody knew that the CO --

MS. WINGATE: If the State says --

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CHAIRMAN SALADINO: Why don't we say progressed in error.

MS. WINGATE: At some point, the certificate of occupancy -- either the certificate of occupancy was flawed because it stated it was a one-family house, go with it, you know; but there was a second independent living unit which makes it two families.

CHAIRMAN SALADINO: Okay.

MS. MOORE: Let's go back to a few of the comments that were made by the neighbor, I just want to clarify. To begin with, her house is actually a two-family house that has, the black top is right across from your exit, I believe it is.

MS. MILLER: Exit.

MS. MOORE: Today, as a matter of fact, it was resurfaced and the cars were in the driveway and the truck was in the right-of-way, and it had to be, you know, everyone had to accommodate because it was being resurfaced, but

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the fact that it was turned into a two-family, it actually uses that private road that Leueen Miller maintains and it was never notified, was not asked for consent, it increased the traffic, it increased the activity and she's, the Miller family has --

CHAIRMAN SALADINO: Wait. So --

MS. MOORE: -- and the Miller family has to pay for the maintenance of the road, so as far as -- I think that there is a misunderstanding --

CHAIRMAN SALADINO: Just so it's clear in my mind, and I'm sorry for interrupting. The neighbors own property along that right-of-way.

MS. MOORE: Right.

CHAIRMAN SALADINO: Are you suggesting they can't maintain that property because --

MS. MOORE: They can't maintain what?

CHAIRMAN SALADINO: Their property.

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MS. MOORE: No, they have --
absolutely, they should maintain their
property, absolutely, what I'm saying
is --

CHAIRMAN SALADINO: Let me finish.
So for her to have her driveway
resurfaced, I'm not sure how that
somehow is -- we were there, we parked
five cars there, we weren't
inconvenienced by that.

MS. MOORE: I guess --

CHAIRMAN SALADINO: I'm not sure
how somebody -- you just said there was
cars parked in the right-of-way,
trucks, cars parked in the right-of-way
--

MS. MOORE: Previously, it was
blocking the right-of-way, but what I
was trying to say is that there is an
accommodation made for the two-family
homes that are using this right-of-way.
This driveway, the cars have been
parked behind each other so that cars
used to have to come out -- I don't

1
2 know if that was corrected now, but
3 with the width of the right-of-way, but
4 all this time, the right-of-way has to
5 give passage to everybody and she can't
6 block the right-of-way. The activities
7 by two-family homes oftentimes block
8 the right-of-way and there has been no
9 comment, any consent or any review, so
10 as far as impact on the community, the
11 impact of homes that have no driveways
12 being turned into two-family homes are
13 much more of the impact on the
14 neighborhood than maintaining the
15 existing conditions of the Miller
16 property, and that's all we're trying
17 to do.

18 I think that there is a
19 misunderstanding from the testimony
20 that was given by the neighbor that we
21 are asking for more B&Bs, we are not.
22 We are not asking for additional B&B,
23 if anything, what we're being told is,
24 don't grant this variance but you lose
25 the control of turning it into a B&B

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and controlling to occupancy. We're saying, no, we're not asking for a B&B, this separate space has been independently used and independently rented and has to, whether it's --

CHAIRMAN SALADINO: But we just heard testimony and the applicant's own admission is that you have been less than forthcoming about who has been using that building --

MS. MOORE: No. What she is --

CHAIRMAN SALADINO: -- so why is it unreasonable for us to assume that if we grant this variance, that will continue, that it will be part of that operation, that it will be part of Harbor Knoll's being B&B.

MS. MOORE: Okay. Would you like to put on the record, is it part of the B&B or is it rented separately, and I think she'll put on the record what is alleged --

CHAIRMAN SALADINO: But I think that's semantics.

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They go to someone's website Harbor Knolls B&B and they're offered a choice of three rooms in this building or this building.

MS. MILLER: (Inaudible.)

MS. WINGATE: It's two separate websites.

CHAIRMAN SALADINO: I apologize.

MS. MILLER: I don't have two separate websites, and I don't intend to have two separate websites. I intend --

CHAIRMAN SALADINO: Wait, I'm confused now.

MS. MILLER: I have a website --

CHAIRMAN SALADINO: So the cottage is advertised on your website?

MS. MILLER: No.

CHAIRMAN SALADINO: It was advertised, it wasn't advertised?

MS. MILLER: No. At one point, for a while, it was; then when it was brought to my attention, it was removed, and it's been removed for

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several years.

I might also add that when you go to see if a place is vacant or not, and you don't want to rent it, you just show it as full. If I go away and I can't rent the B&B, I don't want to rent the B&B when I'm away, I just show on the availability that it's full. That doesn't mean it's full because really, there is nobody there; and to say that we rent the cottage continuously is blatantly incorrect.

There is less traffic coming out of Harbor Knoll, cottage or no cottage, than honestly some of the other properties. Karrie Robinson, now hers is a two-family. There is a tiny, you have to park cars one behind the other, and we were not consulted, we were never advised. I never -- I only found out by accident, by observing, but it's obviously now being used as two-family, maybe Airbnb for all I know. I don't know. I mind my own business and I

1
2 don't really interfere with my
3 neighbors; but to say that what we are
4 asking for in any way changes what is
5 there right now is blatantly incorrect.
6 We're just asking to continue renting
7 the cottage and upgrade the cottage as
8 has been for many, many years.
9 Forty-five years we have owned that
10 property; and we are doing three rooms,
11 three B&B rooms, and that's it. I
12 have -- there's ten bedrooms and you're
13 worried about traffic, if we sold the
14 house tomorrow to a large family,
15 believe me, you would have cars coming
16 in and out like you wouldn't believe.
17 If we rent the house for the summer,
18 stop the B&B and rented the house to a
19 large family for the summer, which I
20 think we're perfectly entitled to do,
21 we're paying the taxes for the house,
22 the property we have; so we have really
23 gone out of our way to keep traffic to
24 a minimum and interference to the
25 neighbors. We even hid the parking

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areas, so they wouldn't need to look at the cars, our cars, not that we have that many, plus other cars. It's very discrete, it's beautifully arranged, and this is more of the, I hate to say it, but the nasty spite that we've had to contend with for many years.

CHAIRMAN SALADINO: By this Board?

MS. MILLER: No. No. No. No.

MR. TASKER: Ms. Miller, excuse me, while you're up there, I want to pursue a couple things.

It's provoked by the fact that your attorney might have been untoward in bringing up the fact that I have a personal connection to that property by virtue of having owned one of the parcels on the period of about 1982 'til, if I recall, 1995. I owned the house that's down on the water. It's now own by, I can't recall their name.

MS. MILLER: Mr. Tilford.

MR. TASKER: Yes.

Your attorney mentioned the fact

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2 that, this comes up in the alternative
3 fact, your attorney mentioned that you
4 were supposedly assiduous in taking
5 care of the maintenance of the
6 right-of-way. The right-of-way to all
7 of those houses is a deeded
8 right-of-way as to which yours is the
9 burdened property by having the
10 right-of-way, and, in fact, by the
11 terms of the deed, you are responsible
12 for the maintenance of that
13 right-of-way, so it's not something
14 you're doing voluntarily.

15 MS. MILLER: Excuse me, there's
16 maintenance and maintenance. I mean --

17 MR. TASKER: That's right. I'm
18 coming to that.

19 There's maintenance and there's
20 maintenance because when I lived there,
21 I never, in fact, I never lived there,
22 I rented it. It was a two-family house
23 when the bought it and I operated it as
24 a two-family house with rentals with
25 the expectation of someday my wife and

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I would like to retire there. We had better thoughts after we had been exposed to the neighborhood.

However, with respect to the claim of --

Don't look at me like that.

CHAIRMAN SALADINO: Exposed to the neighborhood.

MS. MOORE: Is it your objection to the B&B?

CHAIRMAN SALADINO: No, I live in the neighborhood.

MS. MOORE: Okay. Thank you for clarifying that.

MR. TASKER: To what, John?

CHAIRMAN SALADINO: I live in that neighborhood.

MR. TASKER: Yeah, that's it.

But with respect to your claim to maintaining the driveway, I know for a fact that you only maintain the driveway to the point of entry where you enter your own parking area.

I was, I and -- let me think --

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Arty and his wife lived in the house behind me, but to the point of being able to enter those two properties, you never cleaned any of that --

MS. MILLER: That's incorrect, you have --

(Whereupon, Mr. Tasker and Ms. Miller spoke simultaneously.)

MR. TASKER: Let me finish.

Such that --

MS. MOORE: Do you want her to correct your understanding while you say it, or do you want her to wait?

MR. TASKER: I'll give her a chance.

To the point on one occasion, the potholes in the driveway down on my end of the driveway were so deep and so full of water that I hired Ray Nine from Mattituck, he does driveway work and that sort of thing, to come in and fill in the potholes on my end so my tenants can get in and out of there without breaking an axle.

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2 A full-time living housekeeper who
3 lived down at the Miller's house, this
4 was a weekday, the Millers were not
5 present, apparently called Mr. Miller
6 in New York City who called the police
7 to come, and for some specious ground
8 objected to the fact that I was
9 maintaining the driveway and I was not
10 responsible to. Now, Ray Nine is a
11 pretty smart guy, he simply parked his
12 truck behind the police car and went
13 and had lunch and that took care of the
14 police problem, but the Millers did not
15 maintain the driveway as you assert on
16 their behalf, in the past, it's not
17 true, but it's your misunderstanding.

18 MS. MOORE: If I may clarify that.
19 We have paid, and I have bills to prove
20 it and two or three years ago, we paid
21 about 14,000 to redo the driveway right
22 down to the end, and if you weren't
23 there, if you were there today, you
24 clearly would have seen that.

25 CHAIRMAN SALADINO: We're gonna

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get past driveway issue and --

MR. TASKER: It's a veracity
issue.

MS. MILLER: And we do the
snowplowing every year.

CHAIRMAN SALADINO: I understand.
Everybody made their point about the
driveway, so if we could let's move on
from there.

Does anybody else have any other
questions?

(No response.)

CHAIRMAN SALADINO: Thank you.

Is there anyone else from the
public that would perhaps like to
speak?

(No response.)

If not, I'm going to ask, what is
the pleasure of this Board as far as
this public hearing?

MR. CORWIN: I would like to make
a motion that we close the public
hearing, and accept any written
comments for two weeks.

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MR. TASKER: I second that.

CHAIRMAN SALADINO: We'll close
the public hearing this evening --

MR. TASKER: But keep it open to
received --

CHAIRMAN SALADINO: -- but keep it
open to receive written comments for a
period of two weeks.

All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: Aye.

We're going to revert to Item
number -- Item number 8 has taken care
of itself.

Item number 6 is possible motion,
discussion and possible motion on
variances application of the Landmark
Group and the property located at 222
Manor Place, Greenport 11944. Suffolk
County Tax Map 1002-2-2-41.1.

MR. TASKER: John, if I may, at
Flynn Stenography & Transcription Service
(631) 727-1107

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this point, as I have throughout this consideration in the application, I will recuse myself and --

CHAIRMAN SALADINO: Don't even think about leaving, Arthur. David.

MR. CORWIN: Let me make one note to the attorney. We have landmark on the agenda as L-A-N-D-M-A-R-K, and I think on the application, it's spelled L-A-N-M-A-R-K.

MS. NEFF: Correct.

MR. CORWIN: That's a minor error.

CHAIRMAN SALADINO: I'll ask the attorney, on the public notice, it's L-A-N-M-A-R-K and on the agenda, it's L-A-N-D-M-A-R-K, Joseph.

MR. PROKOP: It doesn't matter, doesn't effect anything.

CHAIRMAN SALADINO: Thank God.

MS. NEFF: On the notice of disapproval, it's L-A-N-M-A-R-R.

CHAIRMAN SALADINO: We're going to assume that's a typographical.

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MS. WINGATE: Can we get a correct spelling?

CHAIRMAN SALADINO: I'm gonna take it off the public notice, L-A-N-M-A-R-K.

Were there any comments from the Board?

MR. CORWIN: I have a few comments I'd like to make.

CHAIRMAN SALADINO: David.

MR. CORWIN: First I'd like to note that the parking for Eastern Long Island Hospital is really overflowing now. I don't ever remember seeing so many cars parked there. The hospital property is two parcels of property that have been turned somehow into parking lots, and the street.

I want you to know that I realize the hospital is not now associated with the applicant, other than being a promised tenant, but I would note that Eastern Long Island Hospital is the driver of the demand for a medical

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building.

I want to say I question how the proposed medical building parking in the back of the medical building is going to be used. I'm inclined to think patrons that do not need handicap access will park on the street. I know that's what I would do.

CHAIRMAN SALADINO: I'm sorry.

Can you say that again? Patient don't need --

MR. CORWIN: I'm inclined to think patients, patrons, excuse me, I don't think patrons are going to use the back parking lot if they can just park on the curb. So there is already a lot of parked cars on Manor Place, a lot of congestion. In that aspect, it's gonna increase congestion on Manor Place.

I was a little perplexed by the setup of the original medical building, having no change of use variance. Why didn't they get a change of use variance from the ZBA? But it got one

1
2 or more area variances. I was
3 perplexed until the testimony at the
4 public hearing when Dr. Hanson who was
5 the developer of this space. That
6 explains a lot to me. I did not know
7 Dr. Hanson personally, and I don't want
8 did characterize him as a villain,
9 bully, but I would say that he had a
10 strong personality. My mother worked
11 at Eastern Long Island Hospital for
12 many years as the night supervisor.
13 When Dr. Hanson was a surgeon there,
14 Dr. Hanson was the subject of
15 conversation.

16 My position from the beginning of
17 this application was the medical
18 building should have had a use
19 application, a use variance. Code
20 officials, as far as I know,
21 municipalities are not responsible for
22 their mistakes in such matters.
23 Applicants are the ones responsible for
24 mistakes to such submissions, as not
25 asking for use variance.

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2 The applicant's attorney, who is
3 not here this evening, threatened the
4 ZBA with an Article 78 proceeding.
5 Article 78 proceedings cannot be
6 brought to the Supreme Court until all
7 administrative actions have been
8 exhausted. The applicant would have to
9 file for a use variance if area
10 variances is denied before an Article
11 78 hearing could be initiated, as I
12 understand it. The applicant's
13 attorney presented a different story
14 implying the ZBA would be challenged in
15 Court if he did not get his plan.

16 From all the information that has
17 been presented, both his architectural
18 drawings and as testimony, the proposed
19 plan, as I see it, is an
20 intensification of an existing use.
21 I'll note that the added parking is an
22 intensification of an existing use.
23 The use as a medical building has been
24 much less over the years, in my memory,
25 than is now proposed. The proposal is

1
2 an intensification of use that never
3 got a use variance in the first place.
4 I really should say that again. The
5 proposal is an intensification of use
6 that never got a use variance in the
7 first place. The argument with the
8 proposal for an area variance is all
9 that is needed for an intensification
10 of use that was never approved. Any
11 use that has slowly diminished over the
12 years is false reasoning in my mind.

13 Eastern Long Island Hospital has a
14 building on Main Street in the
15 commercial district that they could use
16 for their administrative staff and for
17 doctors' offices rather than leasing
18 space in a medical building in the R1
19 zoning district.

20 I question the mounting of
21 compressors, heat pumps units ten feet
22 above ground level. That height would
23 broadcast the sound to neighbors.

24 Modern heat units are quarter than
25 older units, no question about that;

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but they're not whisper quite.

I'm still trying the count the number of doctors' offices in the building. I'm still confused by this. Doctors' offices plus Eastern Long Island Hospital administrative offices. I've heard a promise of a maximum five doctors. That's a very difficult thing to enforce, a promise.

There doesn't appear to be any master plan for Eastern Long Island Hospital. I know this is not about Eastern Long Island Hospital other than they will be a tenant. I do have to raise the question, what does the future hold for Eastern Long Island Hospital. It would have been hard to believe the activity going on there now thirty years ago.

What I wanted to suggest at the October meeting was that the applicant and the neighbors try come to an agreement on the use of the property before this ZBA makes a decision. I

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2 was interrupted by the applicant's
3 attorney and could not put forth that
4 suggestion.

5 I was told at a training session
6 and a new owner cannot apply for a use
7 variance. That is to say, you got what
8 you bought. I have attempted to
9 research this question on my own with
10 resources available to me and have
11 found nothing to that effect, and I
12 wonder if the Village attorney can
13 enlighten me about this question.

14 The need of an elevator to comply
15 with current codes is dictated by the
16 use of the second floor doctors'
17 offices; but the doctors' don't have to
18 have offices on the second floor; that
19 just another example of intensification
20 of use. I want to know if the
21 renovation of an existing layout, an
22 existing layout of the building is not
23 an intensification of use. I can
24 understand that. A renovation of an
25 existing layout might bring some more

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patrons, but as I'm told, that under the law, doesn't mean it's an intensification, but a reconfiguration of the whole building is certainly an intensification of use. It's small in size, but large in impact.

MS. NEFF: Small in size and large in what?

MR. CORWIN: Impact.

The reconfiguration of that building is small in size because it's keeping the same plan, but it will be large in impact with the number of patrons using the building.

Thank you.

CHAIRMAN SALADINO: Thank you, David.

We're going to let the attorney have his say, but first maybe the members. Anybody else?

MS. GORDON: I do have something.

I think Mr. Corwin raises some very important issues about the particular qualities of the renovation,

1
2 alteration, reconstruction, whatever we
3 want to call it.

4 I disagree that the use issue is
5 still Salient. I think we have set
6 aside the use issue based on our
7 understanding of a previously
8 nonconforming approved use, so I'm
9 focusing just on the question of the
10 variance, the area variance that's
11 before us.

12 I think there are some other
13 issues that, in addition to those that
14 David raised, about how the building,
15 as propose, would be reconstructed and
16 renovated, all those words that are
17 used in section 150-20, but I think
18 those issues are to be determined by
19 the Planning Board, not by us. My view
20 is that the Zoning Board is intended to
21 grant exceptions or not exceptions to
22 the rules set forth in the code, and
23 that here we are being asked -- I'm
24 going to eliminate the section 150-12
25 and 150-16, which have been dealt with

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2 already, I think, by the parking, by
3 the Planning Board's determination to
4 allow for payment in lieu of park; so
5 I'm dealing just with what I think
6 we're being asked now to do, which is
7 to determine whether it is appropriate
8 the grant a variances which is
9 essentially an exception under Section
10 150-20 for nonconforming uses where it
11 says that such building or use shall
12 not be enlarged, altered, extended,
13 reconstructed or restored. It seems to
14 me that we are being asked to determine
15 whether this is an enlargement, an
16 alteration, an extension, a
17 reconstruction or a restoration, not
18 even whether it's a good one or a bad
19 one, but is that what it is; and I
20 think that's the only question that we
21 are appropriately to determine.

22 So that's where I am.

23 CHAIRMAN SALADINO: Ellen.

24 Do you want me to go?

25 MS. NEFF: Yes. Go ahead.

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2 CHAIRMAN SALADINO: I kind of
3 agree with David and I also kind of
4 agree of Diana which sounds kind of
5 crazy because they didn't seem like
6 they were on the same page.

7 But once the parking was
8 adjudicated, once parking was out the
9 picture, the only thing in front of us
10 right now is a variance, is chapter
11 150-20. Are we going allow -- In my
12 mind, it's are we going the allow this
13 building, and you can pick whichever
14 one you want to be enlarged, altered,
15 extended, reconstructed or restored;
16 it's not gonna be on a different
17 portion of the lot, so obviously it's
18 reconstructed, restored, altered, so I
19 mean that to me is what's in front of
20 us right now, unless I hear differently
21 from my colleagues or from the
22 attorney, to me that's what's in front
23 of me right now.

24 Like David, at the beginning of
25 this process, I thought I have no

1
2 evidence in front of me or was provided
3 to me by the Village that a use
4 variance was ever issued. It was a
5 procedural question, you know, I didn't
6 think we could go forward without
7 legitimizing that building in that
8 zoning district; but we took a vote of
9 the Board, we decided to move forward,
10 we decided to progress this as an area
11 variance, contrary to the request of
12 the architect.

13 MS. NEFF: Which he revised.

14 CHAIRMAN SALADINO: Which his
15 attorney would have strangled him, if
16 he was here.

17 But to me, right now in front of
18 me right now is, the code says you
19 can't do any of those things and I
20 think what's in front of us now is to
21 say, well, yeah you can. I know that's
22 oversimplifying it, but that's how my
23 mind works.

24 So I'm going to let my colloquy
25 Ellen speak and then I think the

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attorney might have something to say
and then I think we'll sum it up and go
through questions.

Ellen.

MS. NEFF: Thank you, John.

I think that the upgrades to the
building, accepting that the use is
pre-existing, I find that you don't
actually say that, but, in fact, by
progressing this application as an area
variance, that we have accepted that
the documents from 1969 and '71
basically give us the building as it
has been used over these years. It has
for lots of reasons which we have
discussed in great detail, to continue
as some kind of the medical office, it
needed the kind of upgrades that have
been proposed. At the same time, the
details about how this would, these
changes necessary for a medical use
would more intensely impact the
neighbors and the neighborhood, I think
are matters that will be discussed in a

1
2 full site plan review by the Planning
3 Board; and they're not, the things that
4 we are supposed to focus on and the
5 things that are subject to an area
6 variance are the moving the assessable
7 ramp to the rear, the removal of the
8 part of the building, seem to me not to
9 be significant, whereas all the other
10 things we discussed are very
11 significant, and I think have,
12 including the dialogue that happened
13 between the residents and the owners, I
14 find in my review of all this that we
15 are faced with a situation, we would
16 love it if it would go away and we
17 didn't have to, but, in fact, there is
18 this building that has been used in the
19 way it's been used and at this point in
20 2017, it does need to continue the kind
21 of upgrades that seem to me fit under
22 our jurisdiction and it's possible to
23 approve.

24 That's it.

25 CHAIRMAN SALADINO: Thank you,

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Ellen.

Joe, did you have something you wanted to share with us?

ATTORNEY PROKOP: I have one thing that I think the Board needs to clarify first and that's; and again, I'm no, I don't review the plans when they come in, but I was made aware the plans have come in. There were sets of plans that came in with the application and then maybe a subsequent sets before the public hearing was held, but then there was a set that came in at the end of October, if I'm not mistaken. Correct?

MS. WINGATE: Yes, I think it was --

CHAIRMAN SALADINO: A set of plans came in addressing some of the concerns that we had.

MS. WINGATE: About lighting, signage.

CHAIRMAN SALADINO: It was lighting, landscaping and decibel levels of the air conditioning units.

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We had asked the applicant, we didn't know he was going to submit new plans. We asked the applicant at one public hearing, some questions were raised, not as for as testimony by the Board during the public hearing, but just some questions were raised about the lighting plan, about the air conditioning units and about -- it wasn't plumbing, it was something else, and the applicant went as far as to -- oh, and his idea or his estimation or best guess of occupancy, plumbing wasn't part, it was three requests, one was lighting, one was the amount of --

MR. CORWIN: One was noise.

CHAIRMAN SALADINO: Noise form the air conditioners and one was inspectors --

MS. NEFF: Drainage.

CHAIRMAN SALADINO: I don't remember drainage. Drainage was --

MS. WINGATE: October 30.

CHAIRMAN SALADINO: Our request to

1
2 the applicant was for three issues that
3 were raised for the next meeting that
4 perhaps he could address, one was the
5 anticipated occupancy, the lighting and
6 the decibel levels of the air
7 conditioning unit.

8 The architect the next meeting or
9 the next month gave us a new set of
10 plans except for the occupancy, kind of
11 addressing those concerns.

12 ATTORNEY PROKOP: Did we ever get
13 the occupancy?

14 CHAIRMAN SALADINO: We have a
15 letter from the attorney that that says
16 that occupancy will be limited to the
17 amount of occupants permitted by the
18 State Building Code and the designated
19 amount permitted by the fire marshal.
20 We never got -- I'm not sure if we were
21 asking for a number. We were asking.
22 You know, if he had a best guess, if he
23 had an estimate of after, if things
24 went well for them, after they rented
25 to -- if they do rent to Eastern Long

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Island who is gonna be, what's gonna be, his response in his letter was that it would be whatever the building code allows, I believe.

Am I getting that right?

MS. NEFF: This is his letter of October 6.

CHAIRMAN SALADINO: October 30. October 26th, it was received on the 30th.

Is that your recollection, David; is that kind of like your recollection or am I just winging this here.

MR. CORWIN: I still don't have clear in my mind what the occupancy is going be. The applicant says five doctors, the hospital said administrative staff, and I heard two doctors' offices; So does that mean seven doctors, does that mean five doctors, I still don't understand, plus the administrative staff for the hospital, that what I heard.

CHAIRMAN SALADINO: I think what

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we hard also was, in the original application was a medical building for up to five doctors. There was never any mention about support. I don't think we have a number for support staff.

MS. WINGATE: On the west side of the building is a big open office and New York state code, I don't know the number off the top of my head for offices, but whatever -- we can't be more restrictive than the state code, whatever the state code allows will be the occupancy.

CHAIRMAN SALADINO: I think that what I just read, didn't I just read that.

MS. WINGATE: Okay.

CHAIRMAN SALADINO: I'm sorry, Joe. Did I just confuse the issue more?

ATTORNEY PROKOP: So with regard to the plans, now that we know what the changes were, the point, one of the

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things I wanted to say was that the, I guess, they were available to the public, the public hearing was still open, so the public had the opportunity to review the plan.

CHAIRMAN SALADINO: The public hearing was open until this evening.

ATTORNEY PROKOP: Okay.

MR. CORWIN: We don't know what the changes were on the October 30th plans. I asked the architect, he said they were minor, so I take his word for that, but we really don't know.

CHAIRMAN SALADINO: David makes a good point, you know, David makes a good point.

MR. CORWIN: This October 30th set of plans, I'm sure it complete, but it's --

ATTORNEY PROKOP: But when we asked him --

MR. CORWIN: -- and it's hard to follow.

ATTORNEY PROKOP: When we asked

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him, he said he didn't know, but then I thought we just said, somebody on the Board just looked at the plans and said the changes were the landscaping, the lighting and something else.

MR. CORWIN: Nobody could have done that --

MS. NEFF: The version we have is very minimal, you know, like small, shrunk.

CHAIRMAN SALADINO: I have to be honest with you, I'm not gonna sit here and try to interpret the plan. If the architect couldn't interpret the plan for us, couldn't answer David's question. Like David, I'm kind of willing to put my trust in this Building Department that if the plan is different than what's presented here, the Building Department will --

MS. WINGATE: (Ms. Wingate hands something to the Board members.)

MR. CORWIN: That's nice, but it's just too small and we don't have time

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to go over it carefully.

MS. WINGATE: (Inaudible) larger set than that too.

MR. CORWIN: We just can't look it over tonight, can't --

MS. WINGATE: We have this sets of plans --

CHAIRMAN SALADINO: Just so it's clear in May mind, David, what is it that -- I don't want to use the word object, what is it that you have concerns about, that what's presented in the attorney's statement is different than what's on the plan that the architect submitted with the attorney. I got this the from the attorney with the plan attached.

MR. CORWIN: Well, it's not clear in my mind, that's what's on my mind.

CHAIRMAN SALADINO: Okay.

ATTORNEY PROKOP: I think the Building Inspector needs to tell us whether this is a different application.

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Is this a response to questions that we had regarding potential impacts or is this a different application or what is happening?

MS. WINGATE: There were some questions asked at the previous meeting, and this was the architect response to the questions about HVAC, lighting and signage. I remember signage, and this is the response to the questions from previous statements.

ATTORNEY PROKOP: So my last comment with regard to the plans moving on is I don't think that any decision you make tonight should be considered to be -- say you were to approve this, it would not be considered an approval of the plans, things like the HV -- whatever it was that was gonna be ten feet in the air, the parking and things like that, those are all things that have to be resolved by the Planning Board if it moves to the Planning Board.

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2 So in no way -- I don't know what
3 this submission a few weeks ago, I
4 don't, if there is a positive vote on
5 this tonight, I don't want it to be
6 deemed an approval of those plans or
7 any other plans by this Board. Those
8 are all things that need to be reviewed
9 by the Planning Board.

10 Then with regard the use, is there
11 a comment, is there a question or
12 comment that you would like to make, a
13 question that you have or a comment
14 that you'd like to make?

15 CHAIRMAN SALADINO: Only as far
16 as, I don't want to get caught up in
17 the intensification of use question. I
18 thought we kind of -- I thought we kind
19 of moved past that, but that would have
20 been -- my only question would have
21 been, what exactly is permitted? We
22 know the applicant is allowed to grow
23 his business, so if there were to two
24 doctors in the building and the
25 business booms, and now there's five

1
2 doctors in this building, that would be
3 permitted. The question that came up
4 was --

5 MR. CORWIN: For the original
6 plan. The original floor plan, if they
7 had two doctors and went to five
8 doctors, yes; but when they take the
9 building and reconfigure it for maximum
10 utilization of available space, that is
11 an intensification of use.

12 CHAIRMAN SALADINO: So let me ask,
13 let me ask David, so we didn't, if the
14 original plan called for X amount of
15 doctors, pick a number five is the
16 number would use, if the original plan,
17 the original pre-co in 1969 when the
18 buildings were joined, the original
19 variance in 1971 and the pre-co called
20 for five doctors or indicated there
21 would be five doctors or four doctors,
22 whatever number we're comfortable with,
23 here because it doesn't matter, are you
24 saying that if the building was never
25 reconfigured, it would be okay to have

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four doctors in there today or five
doctors in there today.

MR. CORWIN: Yes.

CHAIRMAN SALADINO: If it's a
reconfiguration of the building --

MR. CORWIN: The only thing we
have to say how many doctors were in
there is the history. I've lived here
a long time, and I never remember a lot
of doctors being in that building, and
the testimony that I've seen including
a letter from a doctor that was there
at one time did not seem to indicate
there were ever five doctors at once in
this building.

CHAIRMAN SALADINO: Well, the
letter that you're talking about, just
to keep the record straight, the letter
that you're talking about, I went
through -- how do you say this guy's
name?

MS. NEFF: I'm not sure.

CHAIRMAN SALADINO: Ilenfeld
(phonetic). According to his letter to

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Mr. Collins, it seems like there was only three at any one time in the building.

MR. CORWIN: That's what I'm saying.

CHAIRMAN SALADINO: Wait, but the next letter we have from Cynthia Ikis (phonetic) says that during that time, there was five in the building, and a family living in the apartment over my office, that was from 2000 to 2016.

MR. CORWIN: That was a one-line, two-line letter, so you had, according to Ikis, five doctors and a family living in there. Now you're gonna have five doctors, a family living in there and administrative staff for Eastern Long Island Hospital and, of course, the doctors' administrative staff which seems to be growing by leaps and bounds; so that, in my mind, is intensification of use.

CHAIRMAN SALADINO: Well, the letter goes on the to explain, the one Flynn Stenography & Transcription Service
(631) 727-1107

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2 Dr. Ilenfeld wrote to Mr. Collins, he
3 enumerates the amount of doctors, but
4 also one doctor had two office staff
5 members, another doctor had another
6 one, the guy that, Dr. Ilenfeld wrote
7 the letter said he had a secretary,
8 mark never had a secretary, I don't
9 know who Mark is, Mark never had a
10 secretary; so there was support staff
11 there which makes it -- and we don't
12 have a commitment from anybody who is
13 gonna be there. We have an official
14 from Eastern Long Island Hospital
15 expressing an interest in the building,
16 and I honestly can't remember him --

17 MS. NEFF: Mr. Chairman, can I
18 make a comment?

19 I think that we have the drawings
20 which indicate spaces and exactly how
21 many doctors will be there on Monday,
22 Tuesday, each day of the week, that is
23 not our purview. What we do have to do
24 is to take a look at the things that
25 are under our, and it's not a complete

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2 history. One of those doctors, Dr.
3 Ikis was there for fifteen years, so
4 her letter is very brief, but her
5 actual -- you know, we're not trying to
6 develop a complete history. The
7 changes being proposed for the building
8 to house medical personnel see
9 patients, I can't remember what else we
10 called them, but and perhaps
11 administrative staff from the hospital,
12 I don't think we can make -- taking
13 what other people on the Board have
14 said, particularly David, yes every
15 medical office I go to is busier than
16 it used to be, okay. That's true, but
17 the intensification of this property
18 is -- the way to ameliorate the impact,
19 change of the impact that it will have
20 is to try to address, and the Planning
21 Board's job is to do that, our job is
22 to just say zoning code, area
23 variances, let's look at those things,
24 not the issues we're raising around how
25 many people will be in what office.

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2 Many of us go very far away for
3 care, the priest who was here before
4 talked about people in the community,
5 they're happy to be able to go to a
6 doctor that's nearby. The hospital,
7 what goes on in the hospital since its
8 affiliations and the changes that have
9 been made there, I certainly here that
10 there are more people parking in that
11 area than ever before. I don't whether
12 we can have any -- there's no recourse
13 that -- we can't address those issues,
14 it's not under our purview, that's my
15 point of view. It is, the way the
16 changes have happened in the big world
17 and the impacts that happen in this
18 part of it, on this street in our
19 Village, we should do the best we can
20 to weigh them, but we can't utterly
21 predict the future and we can try to
22 ameliorate, and certainly there are
23 many ways that people impacted by them
24 may ameliorate the difficulties and
25 they certainly should address them as

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2 far as possible to the Planning Board.

3 MR. CORWIN: But I have to say.

4 One question we have to answer is
5 whether the proposed variance will have
6 an adverse effect or impact on the
7 physical or environmental conditions of
8 the neighborhood or district, and I
9 have to contend that intensification of
10 use will have an adverse impact, and I
11 think we'll all agree that it's going
12 to be more personnel in there, doctors,
13 administrators, than what's been there
14 for the last one, two, three, four
15 years; there have not been a lot of
16 people in that building, and as far as
17 I know, over many years, there were not
18 a lot of people in that building.

19 CHAIRMAN SALADINO: That's true,
20 David, what you're saying is certainly
21 possible, certainly true; but we also
22 heard from our attorney and from what
23 we know that this, they're certainly
24 allowed to grow their business; so if a
25 doctors' office or a gas station or

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pick a business, in a residential zone gets busy, they're allowed to get busy, they're allowed to --

MR. CORWIN: And that's fair enough, and if there are three doctors down there now, and they don't have any customer because they're not very good and they change the paint on the walls and they change the carpeting and everybody's coming in there, that's fine, but when you change the whole configuration of the building to maximize the space, that's intensification of use, and I'm certainly not a lawyer or judge, but to me, I cannot accept this idea that, oh, you can change a nonconforming, non-compliant use by completely gutting the building and doing it over again and saying, oh, no, that's into an intensification of use.

MS. GORDON: I think one of the problems is that you could not have a modern medical facility without doing

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2 many of the things they're doing which
3 is something that the lawyer said and
4 the architect said but it undoubtedly
5 true. I mean, the increase in the
6 volume of business reflects, in part,
7 real changes in our understanding of
8 how medical service should be
9 delivered. It's now delivered in a
10 much more, sort of, decentralized way
11 and a building that's being used for
12 medical purposes now not only has to
13 have, you know, all the things for the
14 Americans with Disabilities act
15 requires, but also some of these
16 services delivery modernizations which
17 make know how, I don't think we can
18 ignore that.

19 MR. CORWIN: That acknowledged.

20 ATTORNEY PROKOP: Just to comment
21 on the use question, the Building
22 Inspector interpreted this as a
23 pre-existing nonconforming use and
24 issued a denial on that basis. The
25 preexisting nonconforming use is a use

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2 which was conforming at one time and
3 then became nonconforming due to a
4 change in the statute which made it a
5 no-longer-permitted use. The use is
6 supposed to be frozen, the use is
7 supposed to be -- unless it's changed
8 by the ZBA, the use that existed at the
9 time that it became a pre-existing
10 nonconforming use, so it was the burden
11 of the applicant to demonstrate that
12 the use that's proposed is the same use
13 that existed at the time that there was
14 as change in the Zoning ordinance and
15 it became a pre-existing.

16 Nonconforming use.

17 One of things which you're allowed
18 to do is, a pre-existing nonconforming
19 use, as long as it stays the same use
20 and doesn't change in character or
21 change to a different use is allowed to
22 have some increase in volume, some
23 increase in volume, but it's not
24 allowed to have an increase in volume
25 such as by itself would change the

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2 nature of the use or become a different
3 use. In this case, there's, the Board
4 has commented, I'm not exactly sure
5 what the record is, I think we need to
6 determine that, that there may be other
7 uses that go into the building, like
8 office use, things like that, so that
9 needs to be pinned down, unless I'm
10 incorrect.

11 But what the Board is being asked
12 to do is to determine that use that's
13 proposed is not a change in the use as
14 it existed in 1969 or '70 whenever this
15 became a pre-existing nonconforming
16 use.

17 The other thing that was brought
18 up at one of the meetings was that,
19 with a pre-existing nonconforming use,
20 you could not have a discontinuance of
21 the use for a year; if you do, the use
22 is extinguished. There was a question
23 that was raised as to whether or not
24 the use has been in effect for a year
25 and I think that the response to that

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2 was that the, it may not have been in
3 effect while the application was
4 pending or while the new owner decided
5 what to do with the property, so that's
6 another thing that might be considered
7 by the Board. If you don't think that
8 there is a question about that, then
9 that's fine.

10 CHAIRMAN SALADINO: Two questions
11 I have for you.

12 When this building was created in
13 1969, it was created as a medical
14 building, so the use is, whether it got
15 a use variance, I'm, kind of hoping
16 we're past that, but it was created as
17 a medical building; so I'm having a
18 hard -- with support staff. I'm having
19 a hard time understanding how, or maybe
20 I just don't understand, is if it was
21 created in 1969 as a medical building,
22 regardless how many doctors were in it,
23 and this application here in front of
24 us today is for a medical building with
25 support staff, I'm not sure how it's

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changing the use.

I don't surrender my position that I thought there should be a use variance issued to legitimize the building because we don't have a record of use variance, but we're past that now.

MS. NEFF: Let's stay on one side of it. It doesn't help us to keep going back and forth in my opinion.

CHAIRMAN SALADINO: So that's what -- and I might have something else to say about it, but also as far as the abandonment of use, I thought we had testimony there was the doctor in there for the entire time, and then during the appeal freezes everything, right, the appeal freezes everything, and then if that doctor left while this appeal is pending, it wasn't one year so.

MS. WINGATE: It has not been a year since --

CHAIRMAN SALADINO: To the best of your knowledge, the building has been

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occupied --

MS. WINGATE: To the best of my knowledge, there have been doctors in the building up until the sale, past the sale.

ATTORNEY PROKOP: So the question, the legal issues that are raised about -- excuse me.

The legal issue that I explained about the pre-existing, nonconforming use has to do with the use aspect of the application, it does not directly affect 150-20 which says that you cannot reconstruct and do all those other things which is the variance that's before the Board.

CHAIRMAN SALADINO: Okay.

I'm kind of leaning towards Ellen, that I'm not really sure I should care how the inside of the building looks. As a member of the Zoning Board, we don't usually look at the inside of a building. We leave it to the Planning Board and hopefully to the Building

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Department to decide what's right as far as occupancy. Again, that also is, in my mind, up the Building Department.

Go figure, Ellen and I agree.

MR. CORWIN: So what you're saying is, a building that had an apartment and someone's testified a number of doctors can now be turned into a building that has an apartment building, an specified number of doctors at maximum five, which I'm still not clear on, and administrative staff, other than the administrative staff for the five doctors.

CHAIRMAN SALADINO: But we don't know about that --

MS. NEFF: May I just point out that we don't know the tenants.

CHAIRMAN SALADINO: We don't know that.

MS. NEFF: We are doing this in the blind.

MR. CORWIN: Are we gonna put a restriction on it, or we're just

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2 saying, we don't know, so two years
3 from now when it's a deli and they're
4 selling beer, it's okay because we
5 didn't know at the time?

6 CHAIRMAN SALADINO: I think the
7 Planning Board would have more say
8 about those concerns than we do.
9 We're, what's in front of us here is,
10 can this guy rebuild this building, is
11 basically what's in front of us. As
12 far as who is gonna be in that building
13 and how many there's gonna be, you
14 know, I even have a problem with, if
15 the applicant is willing to do it, set
16 limitations on himself as far as hours
17 of operation and stuff like that, me
18 personally, I think there is
19 well-documented case law that we can't
20 even decide that; but the Planning
21 Board might be able to, but not the
22 Zoning Board.

23 MS. GORDON: Is it appropriate for
24 us to send a message to the Planning
25 Board --

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CHAIRMAN SALADINO: We can
certainly --

MS. GORDON: -- that we have
concerns A, B and C?

CHAIRMAN SALADINO: Absolutely.

MS. GORDON: I have a couple that
I think are really important that we
haven't even talked about, so I'd sort
of like to be able to say to the
Planning Board, come on, let's get this
done, address the issues of lighting,
and nose and the driveway on east/west
side and all these things that we --

CHAIRMAN SALADINO: I think that's
totally appropriate, you know,
actually, I think it's fairly routine,
not for us, we don't usually do that,
but for other Zoning Boards
that routine.

ATTORNEY PROKOP: I don't think
that, given the fact that the use, the
front issue in this application, I
don't think it's right for the Board to
say that we are doing this in the dark

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and we don't know what the use is. I think you need to know what the use is.

CHAIRMAN SALADINO: We know what the use is.

MS. NEFF: I didn't say the use, I said exactly who the tenants are, we don't know.

CHAIRMAN SALADINO: They don't have a lease, they don't have a rental agreement.

ATTORNEY PROKOP: Okay. Excuse me, I mistook what you said, I'm sorry.

MS. NEFF: I'm sorry.

CHAIRMAN SALADINO: What is the pleasure of the Board; are we gonna go through these questions?

MS. NEFF: I believe somebody in the audience had something to add.

CHAIRMAN SALADINO: I think there was --

MR. CORWIN: No, I'm sorry.

MS. GORDON: The hearing is closed.

CHAIRMAN SALADINO: The hearing is

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closed. Everything that's been said,
has been said.

MS. NEFF: I'm sorry.

David, that's okay with you,
everybody?

MR. CORWIN: It's not okay with
me.

CHAIRMAN SALADINO: To go over the
questions.

MS. NEFF: SEQRA.

MR. CORWIN: I'm not okay with the
whole thing, John, Mr. John, but I'm
one person.

CHAIRMAN SALADINO: And our
opinions are expressed in our vote.

Is this a Type 2 Action?

ATTORNEY PROKOP: No. It's an
unlisted action.

CHAIRMAN SALADINO: Why is it an
unlisted action?

ATTORNEY PROKOP: Because it's not
a Type 2, a Type 2 is a residential
variance; this isn't a residential
variance.

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CHAIRMAN SALADINO: I'll make a motion, for the purposes of SEQRA, this is an Unlisted Action, and --

Now it's an unlisted action, we got to talk about that.

MR. CORWIN: My contention though I get these two things confused, my contention is that it will have --

MS. NEFF: You need to help us.

ATTORNEY PROKOP: I was looking for the criteria, but that's okay, go ahead.

Sorry.

MR. CORWIN: It will have an impact on the environment. You have to say that about any application, it's gonna have some sort of impact on the environment.

CHAIRMAN SALADINO: I'll make the motion, for the purposes of SEQRA, we're gonna make ourselves the lead agency, we're gonna declare that this is an Unlisted Action.

ATTORNEY PROKOP: I would have

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that be the motion and get that passed
and then I would open it for discussion
about the potential for impacts on the
environment.

CHAIRMAN SALADINO: That would be
the with the five questions.

ATTORNEY PROKOP: No. You need a
SEQRA finding first.

CHAIRMAN SALADINO: I was gonna
make it have no negative impact on the
environment, you know, David can make
his argument that it does, and we can
either agree or not.

MR. PROKOP: So the aspects of the
environment to take into consideration
are, traffic, lighting, parking, noise,
energy supply, ground water, run off,
any aspect of impact on the wild life
natural habitat, those are examples of
potentials of impacts on the
environment that you're supposed to
consider.

MS. GORDON: Thing like, things
that are sort of urban like parking and

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traffic, even if they're slight.

CHAIRMAN SALADINO: Your opinion would be, it that it doesn't have an effect.

MR. PROKOP: You're determining the significance of the impact, it's whether or not there is a significant negative impact on the environment, and there could be more than one impact that is not, neither of which is significant, but which together are significant, the cumulative is significant.

I'm not saying there is or isn't, I'm saying what the law is.

CHAIRMAN SALADINO: So I made that motion, we'll have a discussion. Was it seconded.

MS. GORDON: No, I don't think so, make it again.

CHAIRMAN SALADINO: I'm going to make a motion that the ZBA declares itself lead agency -- do we have to be the lead agency to grant this variance

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or deny this variance.

ATTORNEY PROKOP: Somebody has to make a SEQRA determination before we grant it, yes.

CHAIRMAN SALADINO: Wouldn't it be more appropriate for them?

ATTORNEY PROKOP: Then we should send it back to them for SEQRA --

CHAIRMAN SALADINO: No.

I make the motion that we declare ourself, the ZBA declares itself the lead agency, that this is an Unlisted Action. And how can I make the motion I haven't made the -- it has no negative impact on the environment; is there discussion?

MR. CORWIN: You're going to make the motion with just the first two parts, then we're going to have a discussion, then make a motion as to positive or negative.

CHAIRMAN SALADINO: No, I think I should make the motion, we have the discussion and then just vote instead

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of making two motions.

MR. CORWIN: Okay.

CHAIRMAN SALADINO: So is there any discussion.

ATTORNEY PROKOP: You need a second.

MS. NEFF: Second.

ATTORNEY PROKOP: Now there's discussion.

MR. CORWIN: I have to contend that this will have a positive, that is detriment to the environment because of the traffic, because of the noise, because of lights. I don't think it would have an impact on groundwater, drainage in general, wildlife.

CHAIRMAN SALADINO: As far as the lights, Greenport doesn't subscribe to Dark Sky, the lighting plan --

MR. CORWIN: Come on, John, we know how the vote's gonna go, let's just vote.

MS. GORDON: Let him vote on it.

CHAIRMAN SALADINO: I'm just gonna

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2 give you my reasoning then we'll vote.

3 The architect says the lighting in
4 the parking area will provide no more
5 than one-foot candle power at
6 approximately ten feet from the lights'
7 at all building-mouthed lights. All
8 lights will conform to Dark Sky
9 regulations which the Village does not,
10 but Southold does. The applicant has
11 no desire to illuminate the property,
12 be offensive to the neighbors and will
13 comply with a reasonable mandate of the
14 Village relative to lighting, so I
15 don't know what else could be said if
16 Dark Sky is acceptable in other
17 jurisdictions and the applicant is
18 willing to comply with them here, I'm
19 not gonna have a problem with the
20 lighting point.

21 As far as the noise from the
22 heating, from the mechanical plant, I
23 can only say from personal experience,
24 I didn't use Fujitsu mini split system,
25 I used Mitsubishi, and from personal

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2 experience, there very quiet. There
3 very quiet, so I don't think, I don't
4 think -- I replaced window air
5 conditioners in my home with split
6 system so from, just from personal
7 experience, I would say this system,
8 again, I'm guessing the standards are
9 all the same, I use Mitsubishi, this is
10 Fujitsu, the system that I installed is
11 noticeably quieter than the window air
12 conditioners that I replace them with
13 form the outside of the building.

14 MR. CORWIN: That's one compressor
15 at ground level.

16 CHAIRMAN SALADINO: It's four feet
17 off the ground. Well there's two,
18 there's one on each side of the house.

19 There not structural, there
20 attached to the house, there was no --
21 looking at the building inspector,
22 there was no structural base installed,
23 they're affixed to my house so it's not
24 structural.

25 The third concern, traffic, I

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2 think that the Planning Board gave it
3 due consideration. If they thought
4 there was gonna be an increase in, or
5 detriment to the neighborhood, they
6 wouldn't have agreed to sell the twelve
7 parking spaces.

8 MR. CORWIN: Wait a minute,
9 Mr. Chairman, we were having that
10 little training session prior to the
11 meeting, and Mr. Tasker and
12 Mr. Saladino said, well, what did the
13 Planning Board really vote on, they
14 said we're gonna vote on this letter
15 they got from the attorney. They
16 didn't discuss the issue or say what
17 they were voting on.

18 CHAIRMAN SALADINO: That's true,
19 but that is true, we didn't get to read
20 the resolution. They didn't read the
21 resolution at the meeting but --

22 What?

23 MS. WINGATE: I was just --

24 CHAIRMAN SALADINO: They didn't
25 read the resolution at the meeting,

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2 Arthur Tasker and myself asked that the
3 resolution be read, they said we can't
4 look it up someplace, but the
5 conversation I had with the attorney,
6 the Planning Board attorney afterwards,
7 he explained to me that they accepted
8 payment in lieu of parking.

9 I don't have any reason to doubt
10 that, and the applicant withdrew his
11 application for parking. I mean,
12 that's not something he would do if
13 it's gonna come back and bite him, so
14 I'm reasonably certain that the
15 Planning Board sold them the twelve
16 spaces. Do I have a letter from the
17 Planning Board in front of me? No, I
18 don't.

19 MS. WINGATE: Don't we.

20 ATTORNEY PROKOP: We're not voting
21 on the -- the application for the
22 parking --

23 CHAIRMAN SALADINO: It was a
24 question of SEQRA. David raised the
25 question about parking for SEQRA. That

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was my response to that, so that's how
I feel about those three concerns.

Anybody else about SEQRA, any
concerns?

(No response.)

Ellen.

MS. NEFF: No.

CHAIRMAN SALADINO: Dini?

MS. GORDON: No.

CHAIRMAN SALADINO: Are we
prepared to vote on the SEQRA
resolution?

MS. GORDON: Yes.

CHAIRMAN SALADINO: I made the
motion, it's been seconded. Take a
roll call vote.

David?

MR. CORWIN: No.

CHAIRMAN SALADINO: Dini?

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: Yes.

CHAIRMAN SALADINO: And I'm gonna
vote yes.

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Did we satisfy SEQRA.

ATTORNEY PROKOP: Yes.

So the final vote is to adopt a negative declaration?

CHAIRMAN SALADINO: Yes. No negative impact.

ATTORNEY PROKOP: It's a separate vote, so the vote would be to adopt a negative declaration. Excuse me.

The motion would be for the Board to adopt a negative declaration for purposes of SEQRA.

Would one member please make that motion.

A negative declaration is a quorum that has to be adopted by the Board.

CHAIRMAN SALADINO: So moved.

MS. GORDON: Seconds.

CHAIRMAN SALADINO: All in favor?

MS. GORDON: Aye.

MS. NEFF: Aye.

CHAIRMAN SALADINO: I'll vote aye.

MR. CORWIN: Nay.

CHAIRMAN SALADINO: Andy nay.

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Three yes, one no.

Is the Board ready to go through these five questions?

MS. NEFF: Yes.

MS. GORDON: Yes.

MR. CORWIN: Is there any further discussion -- do we think we're gonna have any further discussion, we'll read each question and direct our discussion to create a record or do we just want to read them and vote; do you think there's been enough discussion on these questions?

There's been enough discussion, we don't have any official record tonight anyway so.

MS. NEFF: We do, we have the tape.

MR. CORWIN: Which incidentally, somebody is supposed to be keeping track?

CHAIRMAN SALADINO: Joe is.

MS. WINGATE: All three of us are/

ATTORNEY PROKOP: There's three

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people doing it.

CHAIRMAN SALADINO: David, we can only do the best we can with the tools that we have.

MR. CORWIN: That's understood, Mr. John.

CHAIRMAN SALADINO: If somebody is unhappy with what's going on here, they're always free to --

MR. CORWIN: We don't have to extend it to 12 o'clock tonight, let's get the agony over.

CHAIRMAN SALADINO: I was about to read them. You were the guy who came up with the question about whose keeping minutes.

So if anybody here has a problem with the lack of a stenographer, with the proceedings up 'til now, they're free to, what we do here is subject to review by someone else.

Question number 1 is whether an undesirable change will be produced in the character of the neighborhood or a

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detriment to nearby properties will be created by the granting of the area variances.

David?

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana.

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: I'm gonna vote no.

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

Mr. Corwin.

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana?

MS. GORDON: No.

CHAIRMAN SALADINO: Ms. Neff.

MS. NEFF: No.

CHAIRMAN SALADINO: And I'm gonna vote no.

Whether the requested area

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variance is substantial.

David.

MR. CORWIN: No.

CHAIRMAN SALADINO: Diana.

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen.

MS. NEFF: No.

CHAIRMAN SALADINO: I'll vote no.

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

David.

MR. CORWIN: The variance has the potential to cause more congestion, traffic and parking in what has become a busy neighborhood, so the answer is yes, it will have adverse effect on the neighborhood.

CHAIRMAN SALADINO: Dini.

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen.

MS. NEFF: No.

CHAIRMAN SALADINO: And I'm gonna

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vote --

MS. NEFF: May I just explain.

I think that when the predominance of effect and the changes over time in the neighborhood have proportionally way more to do with the hospital than this medical office building.

CHAIRMAN SALADINO: Two times in one night Ellen and I are gonna agree.

MR. CORWIN: Without the hospital, we wouldn't be here right now discussing this medical building.

MS. NEFF: Correct.

CHAIRMAN SALADINO: I'm going vote no.

MS. GORDON: Wait, could we -- the answer --

MS. NEFF: Will it have an adverse effect?

MS. GORDON: David said yes, I said yes, you say no -- I just want to know how people voted, okay.

CHAIRMAN SALADINO: Number 5, whether the alleged difficulty was

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self-created which consideration shall be relevant to the decision of the Board of Appeal, but not necessarily preclude the granting of the area variances.

David.

MR. CORWIN: Yes.

CHAIRMAN SALADINO: Diana.

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen.

MS. NEFF: No.

CHAIRMAN SALADINO: I'm gonna vote no.

All right.

MS. GORDON: Before we vote for the variances, I would like to say that I really think it is important to send a message about our, about some specific concerns to the Planning Board. I'm not sure what the procedure would be for doing that, but it just seems to be very important. This is a big significant project for the Village as a whole and I think the two boards

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should be working together in some fashion.

ATTORNEY PROKOP: You're going to eventually issue, whatever your vote is, you're going to eventually issue a written decision, so what somebody should do is make a motion whatever way you would like to make a motion with those concerns. If you want to raise them as conditions, then you can specifically mention it as a condition. You're able to do that if it's going to reduce the impact of the variance that's granted.

MS. GORDON: I have a question, can we make a motion which includes interest in sending our concerns to the Planning Board without specifying them now with the caveat, the understanding that we will specify them by a different memo within the next two or three weeks, something like that.

CHAIRMAN SALADINO: What we can do is, we can vote, the findings and

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2 determinations will be drawn up, after
3 we get the findings and determination,
4 we can make comments to that to be
5 included, and that could be submitted
6 to the Planning Board. They're gonna
7 get the entire record, I think the
8 entire record should go to the Planning
9 Board.

10 MR. CORWIN: If you don't come up
11 with determinations tonight, you're
12 gonna give a yes vote and move ahead,
13 if you want to say, well, it's gonna
14 take us a month to get this, the
15 Planning Board a couple months --

16 CHAIRMAN SALADINO: Well, you're
17 talking a about imposing conditions,
18 Dini's talking about expressing
19 concerns or opinions.

20 ATTORNEY PROKOP: There's really
21 no mechanism, Dini ask if we could send
22 a memo, you could, but it's not really
23 legally significant.

24 CHAIRMAN SALADINO: It's an
25 opinion, correct.

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Are you talking about conditions, David? I didn't think we were imposing conditions.

MR. CORWIN: I'm not saying that. I'm saying, what's the point when they know they're gonna get a yes vote for the Planning Board, Zoning Board of Appeals to set conditions, not conditions, concerns for the Planning Board to consider. That means we have to do it as a single board tonight or we can do it at our December meeting, if you want to do it that way. At that point in time forward our concerns to the Planning Board.

Do you know what I'm trying to say?

CHAIRMAN SALADINO: I do. I do understand what you're trying to say, but what happens here tonight has to do with an area variance, the concerns about the building and how it effects the neighbors and the surrounding area is an opinion by independent members or

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2 the Board as a whole. There is no --
3 it doesn't seem like the consensus is
4 going to be unanimous here about what
5 the opinion to be progressed to the
6 Planning Board is gonna be, so we can
7 progress it independently.

8 MR. CORWIN: Either you do it
9 independently and you come to the
10 Planning Board and say, then you do an
11 independent person. If you're making a
12 recommendation as the Zoning Board of
13 Appeals, we've all got find something
14 three people will agree on.

15 MS. NEFF: Mr. Chairman and other
16 members, I think given the time and
17 attention we have put in this and the
18 dialogue that has been created with
19 people who come to the meetings
20 including tonight and all the other
21 meetings, that we as a Board are
22 capable of crafting a sentence perhaps
23 even two sentences, but I think we can
24 do it in one that express the four of
25 us, our concerns. I think we could

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come up with that in five minutes or less tonight.

CHAIRMAN SALADINO: But the original, what the original question was --

MS. NEFF: After the vote.

CHAIRMAN SALADINO: Do we do it before the vote or after the vote' wasn't that the original, if I can remember that far back, the original question.

MS. NEFF: I think we should do it after. I think we have our opinion et cetera. We can vote and together we can craft a short sentence that expresses our concern because they are four or five things, in my view, I don't know the rest of the members, they're not eight or ten or twelve. They're important.

CHAIRMAN SALADINO: I agree. I just think once we take --

MS. NEFF: I don't think we have varying opinions about them, I think

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we're --

CHAIRMAN SALADINO: I just think once we take this vote, somebody's gonna have to stand by the door because this place is gonna clear out in a hurry.

ATTORNEY PROKOP: Can I make a suggestion, whatever vote you take is subject to the issuance of a written decision, and then you can have this discussion when you do the decision.

CHAIRMAN SALADINO: The Planning Board is gonna meet on this application probably before we get --

MS. LINGG: Their work session is at the end of the month, so it would be December 28th.

ATTORNEY PROKOP: Why don't the members just express what they want to do instead of talking about what the framework is, why don't we discuss what the concerns are?

CHAIRMAN SALADINO: Yeah. I'm okay with that. Do you want to express

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your concerns before we vote?

(Whereupon, several people spoke simultaneously.)

ATTORNEY PROKOP: You can't have an unconditional vote and then decide later to put conditions on it.

MS. GORDON: We're not talking about conditions.

CHAIRMAN SALADINO: Diana's talking about crafting an opinion or recommendations for the planning Board. The vote, I think is gonna be the vote. The recommendations or the opinion that we craft for the Planning Board --

MS. GORDON: Maybe we just won't worry that it doesn't have legal significance, but it has community.

CHAIRMAN SALADINO: Okay. So are we prepared to offer our opinions or take this vote and then offer our opinions?

MR. CORWIN: Take the vote, and then try to craft something.

CHAIRMAN SALADINO: All right.

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I'm gonna make a motion that we grant
the area variance.

MS. GORDON: Second.

CHAIRMAN SALADINO: David.

MR. CORWIN: No.

CHAIRMAN SALADINO: Diana.

MS. GORDON: Yes.

CHAIRMAN SALADINO: Ellen.

MS. NEFF: Yes.

CHAIRMAN SALADINO: And I'm gonna
vote yes.

Did you get that?

MS. WINGATE: Yes indeed.

CHAIRMAN SALADINO: Do we have an
opinion that we want to progress to the
Planning Board? Can we come up with a
consensus that of an opinion that the
four of us agree on?

MS. NEFF: I'm working on one. I
think we all need to -- we could
dismiss the public.

CHAIRMAN SALADINO: I don't think
we have the right the dismiss them or
mandate that they stay.

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MS. GORDON: They're not running for the door.

CHAIRMAN SALADINO: I think the public can do what they want.

My opinion about the Planning Board is that we have probably six hundred pages of conversation here about this. If the Planning Board has been paying attention, I think they'll know exactly how the Zoning Board feels, the concerns that we raised and the concerns for the --

Listen, I want to make a -- I kind of hope the neighbors don't think that we didn't listen, me personally, I can't speak for the rest of you, I listened to everything that everybody had to say, and I thought the points raised were valid to a point, but I think there is more of a perceived fear than an actual fear of what exactly is gonna happen; so I just hope the neighbors kind of understand that.

But as far as the Planning Board,
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I don't believe I have a comment for the Planning Board.

MS. GORDON: I have two areas of concern. One is combination of light and noise and a hope that the applicants and the Planning Board would get together on whatever can be done to make lighting late in the day and noise all day long as minimal as possible.

And the second thing is that issue of the western, of the exit driveway. I just can't believe there isn't a way to expand the back parking lot or something so that the driveway doesn't have to go within a foot of the home on the western side. I just can't imagine there isn't a way to accommodate that.

Those are my two areas.

CHAIRMAN SALADINO: Actually, I have a comment from the Planning Board about that. Do you have that? I have a comment from the Planning Board about the driveway.

MS. WINGATE: I have a suggestion.

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Perhaps we could do the joint meeting,
so you could express your opinion to
Planning Board and all be in session.

CHAIRMAN SALADINO: I'm not in
favor of joint meetings. We have
enough trouble keeping sanity with five
people, then you get five more people
with diverse opinions. I'm not going
to call that meeting. My colleagues
can overrule me, I think, although the
Chairman calls the meeting, I don't
think that's productive.

MS. NEFF: I'm going to have a
draft, okay. This is a draft. The
undersigned members of the Greenport
ZBA have approved this area variance,
and we put in all the details about the
owners, and we have approved it. We
want to express our concern about
matters that are legitimately matters
for the ZBA to handle, but that concern
the impact on the neighborhood,
particularly items related to lighting,
noise, hours of operation, and if you

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want to add some other phrases to it,
and that's all we say. We say we did
approve it, these matters are under
your purview, but we want to know, we
have an extensive record and we're
asking you work to ameliorate these
conditions that are under their
purview.

I kind of messed that up.

CHAIRMAN SALADINO: Little bit.

MS. NEFF: That's the sense of it.

CHAIRMAN SALADINO: I don't have a
problem with that.

MS. NEFF: And you might want to
add to lighting, noise, hours of
operation.

MS. WINGATE: Impact on the
neighborhood.

MS. NEFF: As they relate to the
impact on the neighborhood.

MS. WINGATE: Oh as they --

MS. NEFF: There might be one or
two other things we want on that list.

MS. GORDON: I would say exit,

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egress.

MS. WINGATE: You mean vehicular?

MS. NEFF: It's that driveway on the west side, but I realize that's the exit, but surely that can be fixed.

MS. WINGATE: Vehicular consideration.

CHAIRMAN SALADINO: Eileen.

MS. WINGATE: John.

CHAIRMAN SALADINO: There's only one curb cut.

MS. WINGATE: No. There two, there's east and west.

MS. NEFF: But the one to the west is not designed for throughway, through to the rear and out the other side.

MS. WINGATE: Right.

CHAIRMAN SALADINO: It says here only one curb cut per property has been approved. It's one property.

I'm going to make a motion that Ellen's comments be recorded and provided to the Planning Board.

So moved.

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MS. NEFF: Remember I said, we the undersigned.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MS. GORDON: Aye.

CHAIRMAN SALADINO: I'll go back. Ellen, are you gonna vote?

MS. NEFF: Aye.

CHAIRMAN SALADINO: David, you gonna vote?

MS. NEFF: Nay.

CHAIRMAN SALADINO: Motion number 9, motion to dismiss.

MR. CORWIN: Are we gonna discuss the Miller project.

CHAIRMAN SALADINO: No, we --

MR. CORWIN: It was my idea.

CHAIRMAN SALADINO: It was your idea to extend the comment period two weeks.

Folks, we're adjourned.

ATTORNEY PROKOP: [41]

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AUDIENCE MEMBER: [7] 6/2

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CHAIRMAN SALADINO: [275]

FATHER BALLAS: [1] 8/17

MR. CORWIN: [82] 4/8 4/15

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MR. GROSSMAN: [3] 13/8

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MR. PROKOP: [3] 124/18

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MR. SOUTHARD: [27] 21/20

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MR. TASKER: [73] 4/5 4/7

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MS. ALLEN: [1] 93/23

MS. GORDON: [48] 4/9 4/18

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MS. LINGG: [1] 190/15

MS. MILLER: [56] 50/18 50/21

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MS. MOORE: [83] 11/2 41/16

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MS. NEFF: [66] 4/10 4/19 5/12

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MS. ROBINSON: [11] 85/11

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MS. WINGATE: [43] 76/13

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