VILLAGE OF GREENPORT
COUNTY OF SUFFOLK STATE OF NEW YORK

ZONING BOARD OF APPEALS
REGULAR MEETING

January 17, 2017
6:00 P.M.

Third Street Fire Station
Greenport, New York.

BEFORE:

JOHN SALADINO - Chairman
DAVID CORWIN - Member
DINNI GORDON - Member
ELLEN NEFF - Member
ARTHUR TASKER - Member

EILEEN WINGATE - Village Building Inspector
JOSEPH PROKOP - Village Attorney
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(THE MEETING WAS CALLED TO ORDER AT 6:00 P.M.)

CHAIRMAN SALADINO: Okay. This is the January 17th, 2017 meeting of the Zoning Board of Appeals, the Village of Greenport Zoning Board of Appeals.

I'll call -- oh, do we have name plates? Oh, I'm sorry. I'll call the roll for the stenographer. David Corwin, Dinni Gordon, Ellen Neff, Arthur Tasker and John Saladino.

Item #1 is motion to accept the Zoning Board of Appeals minutes for the meeting held on December 20th, 2016. So moved.

MS. NEFF: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: Any opposed?

(No Response)

Item #2, motion to approve the Zoning Board of Appeals minutes for the meeting held on November 15th, 2016. So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.
MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: Opposed?

(No Response)

Item #3 is motion to -- and, again, I know we have a calendar, but since it's here. Motion to schedule our next Zoning Board of Appeals meeting for February 21st, 2017. So moved.

MS. GORDON: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

CHAIRMAN SALADINO: Item #4 is to accept the findings and determinations for SAKD Holdings, LLC. I'm sorry. Go ahead, Dinni.

MS. GORDON: I just want to be sure I understand. We are simply saying that this document reflects what we did?

CHAIRMAN SALADINO: Exactly.

MS. GORDON: Okay. I must admit that a few of the details, since it was stretched out over a very long period, I could not independently verify at

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this moment. But, by and large, it seems to me to reflect what we did.

CHAIRMAN SALADINO: Well, everything in this document, like you, I don't remember word for word, but it kind of reflects my -- we have the Attorney's assurance that this is what happened, and the Building Inspector's. I'm willing to accept the document. So I'm going to --

MS. NEFF: Since it is a very lengthy document and you raise this issue, is there any -- anything that we need to discuss or review by any -- the Attorney or any other members?

(No Response)

MS. NEFF: Okay.

MR. TASKER: Do we do that before or after we move? There's a motion on the floor to accept it. I have some very minor corrections I need to point out.

MR. PROKOP: I think it should be before.

MR. TASKER: Okay.

MR. PROKOP: Please. Excuse me, Chairman, it's my recommendation. It's up to the --

CHAIRMAN SALADINO: I don't -- I don't think it was seconded, so we can do whatever we want.

Arthur, you have something?
MR. TASKER: Yeah, a couple of minor corrections. On page 14, consideration of the height variance --

MS. NEFF: Just one second until I get to Page 14, please.

MR. TASKER: Item number 4.

MS. NEFF: Item number 4, okay.

MR. TASKER: Item number 4A, where it indicates the voting was Corwin and Gordon, yes, and Neff and Saladino, no, I, too, voted no. If you'll check the minutes of the December 6th meeting at Page 19, Line 25, you will see my vote.

Similarly, on Page 15, Item 6, Parking Variance.

MS. NEFF: Just a little slower. On item --

MR. TASKER: Fifteen.

MS. NEFF: Page what?

MR. TASKER: Fifteen.

MS. NEFF: Page 15.

MR. TASKER: Page 15, Item 6 --

MS. NEFF: Thank you.

MR. TASKER: -- Parking Variance.

MS. NEFF: Thank you.

MR. TASKER: The section, Sub A, "Undesirable change in the character," the vote there was also
Corwin and Gordon, yes; Neff and Saladino, no. I believe that all members, including myself, voted no, if you will check the minutes at Page 39, Line 23.

CHAIRMAN SALADINO: Do we have -- do we have --

MS. WINGATE: Line 23.

CHAIRMAN SALADINO: Do we have the score sheet?

MS. WINGATE: Oh, I don't. I did not bring all of these.

CHAIRMAN SALADINO: You know, I had it in my hand today, too. I put it with the application.

MR. TASKER: It's very clear in the minutes, easy to find.

MS. WINGATE: I will work on this tomorrow.

CHAIRMAN SALADINO: Okay.

MR. PROKOP: Since those are not substantive to the decision, I think we could probably adopt it with those changes.

MS. NEFF: Well, actually, we could look at them. We have Wi-Fi here, if we wanted to look at it, the Board.

CHAIRMAN SALADINO: Well, I don't doubt that.

MS. NEFF: All right.
CHAIRMAN SALADINO: I mean, it's here in front of us and I don't doubt that he's correct.

MS. NEFF: Okay.

CHAIRMAN SALADINO: I just think it was a small sin of omission, perhaps.

MS. NEFF: All right.

CHAIRMAN SALADINO: And, well, let me ask Arthur. Are you okay accepting this document with those changes?

MR. TASKER: With those changes, oh, certainly, yeah, yeah. No.

CHAIRMAN SALADINO: All right. So we're going to make those changes.

MR. TASKER: I want the record to reflect exactly what you did in case there's any questions later on.

CHAIRMAN SALADINO: So we're going to -- we're going to make those changes to the record. And, David, did you say something?

MR. CORWIN: No.

CHAIRMAN SALADINO: No. We're going to make those changes to the record. And there's a motion on the table to accept the application -- the Findings and Determination of SAKD Holdings by Daniel Pennessi, President, southeast corner of
Front and Third Street, Village of Greenport;
Suffolk County Tax Map #1001-5-4-5. So moved.

MS. WINGATE: Second. Are you --
CHAIRMAN SALADINO: Are you seconding?
MS. WINGATE: No.
MR. PROKOP: No. A Board Member has to second.

MS. WINGATE: I know, but --
MS. NEFF: Second.

MS. WINGATE: Oh, thank you.
MS. NEFF: You're welcome.

(Laughter)
CHAIRMAN SALADINO: I was waiting. All in favor?

MS. GORDON: Aye.
MS. NEFF: Aye.
MR. TASKER: Aye.
CHAIRMAN SALADINO: Any opposed?
MR. CORWIN: I vote no.
CHAIRMAN SALADINO: Is that the same as being opposed?
MR. CORWIN: Yes.
CHAIRMAN SALADINO: Okay. So it's four yes and one no.

MR. PROKOP: I just wanted to mention that on
major applications like this one, what I do -- what
I've been doing recently is I go back and actually I
print out the portion of the minutes from the month
that has to do with this application. So if you go
to the file, the ZBA file for this application, you
can -- every month that it's been on our agenda from
the very beginning, you could see just the minutes
from that month that applied to this particular
application. So if you -- you know, if you want to
spend time one day just to go through and see, check
out, you know, a couple of things that we mentioned
tonight or anything else of interest to you, you
don't have to go through hundreds and hundreds of
pages of minutes, it's just the part that's relevant
to this application.

CHAIRMAN SALADINO: Thank you.

MS. WINGATE: You mean, I shouldn't have
thrown those away?

(Laughter)

CHAIRMAN SALADINO: You can forward them to
the Planning Board.

MR. PROKOP: Well, that's a good idea,
actually. It's probably -- the files available for
the Planning Board.

MS. WINGATE: Okay.

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MR. PROKOP: Good. Thank you.

CHAIRMAN SALADINO: Are you done?

Item #5 is a motion to notice and schedule a public hearing for an interpretation of how and where Chapter 150-18 relates to zoning districts in the Village of Greenport.

We have a request to the Village of Greenport Zoning Board of Appeals. The Building Inspector is requesting an interpretation of how Chapter 150-18 of the Village of Greenport Code relates to Village zoning districts. The requested interpretation should include which zoning districts should use Section 150-18 as a guideline for development. So moved.

MS. GORDON: Question.

CHAIRMAN SALADINO: Sure.

MS. GORDON: Does this have bearing on a particular application or is it a general question? Because --

CHAIRMAN SALADINO: Let me -- maybe just let me explain for one second. I was going to wait, but let me explain for one second.

Recently, we had an application. There's been discussion between myself and the Building Inspector, minor debate, about where Chapter 150-18,
what's a permitted use in the various zoning -- is
multi-family housing a permitted use in each and
every one of the zoning districts.

We've recently had an application for a piece
property in the R-1 District that multi-family --
for a multi-family house, that multi-family housing
is not a permitted use, either a permitted use or a
conditional use in the R-1 District.

The application was progressed in error,
whether it was our mistake or the applicant's
mistake. But this has nothing to do with a
particular application. It has to do with an
interpretation of where multi-family housing is a
permitted use. It's not to expand Chapter 150-18,
it's not an interpretation to minimize or reduce it.
It's just to interpret the code as to what districts
multi-family housing is a permitted use. We know
R-1 it's not. We know that WC it's not. We know
R-2, because it's mentioned for a conversion, that
it is.

So the question boils down to the CR, to the
Commercial Retail Zone. Is multi-family -- and the
General Commercial, but I don't believe there's
anything there except railroad, right?

MS. WINGATE: Right.
CHAIRMAN SALADINO: Isn't that the railroad property? The only thing that's --

MS. WINGATE: There's very little. There's --

CHAIRMAN SALADINO: So it boils down to is multi-family housing a permitted use in the Commercial Retail District?

MS. WINGATE: No.

MR. TASKER: No.

MS. GORDON: So are we being asked --

MR. TASKER: Time.

MS. WINGATE: Yeah.

MR. TASKER: May I?

CHAIRMAN SALADINO: Sure.

MS. WINGATE: That's not what I asked.

MR. TASKER: That's right.

MS. GORDON: Are we being asked to decide on something that goes beyond the structure of code? Because, in fact, you know, that article just sort of sits out there.

CHAIRMAN SALADINO: I don't believe it has to do with that article. I believe it has to do with where is multi-family housing permitted. The article -- the article says once you decide that multi-family housing is permitted in a specific zoning district, these are the guidelines you have
to go by. The zoning district itself decides where
multi-family housing is a permitted use.

MR. TASKER: Yeah, I'll concur with you with
what you just said, John, in this way. We're at --
the question that's being asked is being asked of
the wrong part of the code. Even if we were to say
that 150-18 applied here, there and everywhere, that
simply says how you have to build the building, not
whether or not it is permitted. And as Chairman
indicated, what is permitted, you have to look at
the permitted and/or conditional uses district by
district.

It's perfectly clear that it is not permitted
-- it is not permitted in a multi -- in an R-1
District. It is a conditional use in an R-2
District under very stringent provisions. It only
applies to buildings which were converted that had
been in existence at the time the code was written,
not unlike the question of whether or not parking
applies to a building that went through a lot that
was developed. If the building was in existence
prior to the date that the code was adopted, then it
may be considered as a conditional use in an R-2
District.

CHAIRMAN SALADINO: Arthur, before we --
before we get too far into this, I think that's just
the exact kind of stuff that we should be having at
the public hearing --

    MS. WINGATE: Yes.

    CHAIRMAN SALADINO: -- as opposed to before
    the public hearing.

    MR. TASKER: Fine.

    CHAIRMAN SALADINO: So --

    MR. TASKER: I'd be happy to repeat myself.

    CHAIRMAN SALADINO: But --

    MR. TASKER: Never been shy about that.

    CHAIRMAN SALADINO: But I think, unless
    somebody else has a question about the intention
    here, I would --

    MS. GORDON: Well, I think my question is
    about the intention, because it seems to me that
    taking on the task of interpreting this clearly kind
    of obscure provision, it sounds to me as though we
    are heading down the path towards something that
    looks like a Legislative change that the Village
    Board should be considering, rather than -- or
    rather than just -- I don't know. I'm a little
    uncomfortable with the dimension of what we're --

    CHAIRMAN SALADINO: Well, let me --

    MS. GORDON: -- assigning ourselves to do.
CHAIRMAN SALADINO: Let me say this: I personally don't believe we have the right to feel like that. I think once we're asked for an interpretation, it's kind of our obligation to give it, number one.

Number two, I don't think we are legislating. I think all we're doing is clarifying, interpreting the words that are already in the code. As a matter of fact, that's part of our mandate, it's part of every Zoning Board of Appeals in the United States' mandate, is to interpret the code. Sometimes there's a fine line between interpretation and legislation. I don't think so in this case. I think all you have to do is read the code, the 465 words that are in that portion of the code, and decide is this a permitted use? I mean, it's a fairly simple question, is this a permitted use in that particular zoning district?

MS. GORDON: Suppose we decided that there was no indication, there was no indication either way of where it might apply, other than at -- in that one reference in the R-2 District. Do we then just drop it?

CHAIRMAN SALADINO: No, it doesn't -- wait. I'm not sure. I'm not sure what I -- what you're
saying. You're saying we can't come to a decision?

MS. GORDON: I'm saying suppose it turns out that there is no -- we are not prepared to provide a definitive interpretation, that we don't see something that enables us to say with certainty what is intended.

CHAIRMAN SALADINO: Well, I'm confident that there's five members here that are all free thinkers, that I'm sure we can come up with an answer. I'm sorry. Perhaps the Building Inspector wants to say something.

MS. WINGATE: No.

CHAIRMAN SALADINO: Oh, I saw you --

MS. WINGATE: I'm going to bolt.

MS. NEFF: Okay. Could -- may I?

CHAIRMAN SALADINO: Can I just say this? The Building Inspector has a previous appointment. We've kept her a couple of extra minutes --

MS. WINGATE: Well, I'm going to get into it.

CHAIRMAN SALADINO: -- that she -- that she asked for. So I'm going to -- I'm going to --

Eileen, get out.

MS. NEFF: Could I ask --

MS. WINGATE: I want the Board --

MS. NEFF: -- before you go one question?
Exactly what are we being asked to interpret, in your words?

MS. WINGATE: Section 150-18 --

MS. NEFF: I see, right, right.

MS. WINGATE: -- is a guideline for development for multi-family housing. In what -- in what districts? We know about R-1, we know about R-2. We don't know about CR, and we don't know about WC, and we don't know about CG.

MS. NEFF: Okay.

MS. WINGATE: So that's the discussion.

MS. NEFF: And the question -- and may I also ask, is there any other parts of the code that we should look at in reference to the multi-family?

CHAIRMAN SALADINO: I think we should look at it all.

MS. WINGATE: You should look at it all.

CHAIRMAN SALADINO: I think we should.

MS. WINGATE: Okay, that's what I thought.

CHAIRMAN SALADINO: I think we should look at it all.

MS. NEFF: Okay. And is that being asked?

CHAIRMAN SALADINO: That's part of our -- that's part of -- this request, this request is to notice a public hearing and to have the discussion,
to have what we're attempting to have now for the public, and for the public to weigh in. Nobody's -- nobody's looking to abolish multi-family housing. Nobody's looking to expand it or make it smaller. All this -- all this interpretation is asking is where is it a permitted use. If it's not a permitted use, it doesn't get abolished. All it does, if somebody wants to build it in that particular area, is instead of asking for an area variance to conform with Chapter 150-18, they have to ask for a use variance first and then ask for an area variance, if the property needs variances.

MS. NEFF: May I also ask a question? The definitions at the beginning of the code, where it defines what a multi-family is, that would be relevant to take a look at.

CHAIRMAN SALADINO: I think the definition of multi-family is really relevant, yeah.

MS. NEFF: Yeah.

CHAIRMAN SALADINO: I think --

MS. NEFF: Okay.

MS. WINGATE: It's in the code. There's a definition.

MS. NEFF: Yes, it's a definition.

MS. WINGATE: It's right there.
MS. NEFF: Yes, it is.

CHAIRMAN SALADINO: There's a definition also in Chapter 103 for multi-family under rental?

MS. WINGATE: It's a couple of different places.

CHAIRMAN SALADINO: So the Building Inspector, the Building Department is making this request, I think in anticipation of future construction, I think, what might happen. So I'm going to -- I'm going to make the motion again, I guess.

So I'm going to make a motion to notice and schedule a public hearing for an interpretation of how Chapter 150-18 of the Village of Greenport Code relates to Village zoning districts. The requested interpretation should include which zoning districts should use Section 150-18 as a guideline for development. So moved.

Just to remind everybody, we don't -- we don't have the right to deny this application because we don't agree, or perhaps we don't agree with the outcome of it. The Building Department has every right to ask for this.

MS. GORDON: Uh-huh.

CHAIRMAN SALADINO: So.

MR. TASKER: Well, let me interject at this
point, since you don't have a second and we can talk
about it a little bit.

   If there is a public hearing to address the
interpretation of Chapter 150-18 as to where it
applies, it's going to be a pretty short hearing,
because there's nothing in 150-18 that says anything
at all whatsoever about where 150 -- in what zoning
districts 150-18 may or may not apply. And I would
submit that the wrong question has been asked, and
that that limits us to 150 -- consideration of
150-18. As I said, that's going to be a very short
hearing.

   CHAIRMAN SALADINO: Well, how about I make a
different request, then? We'll supersede -- we'll
put the Building Department's request on the side,
and I'll make a different request.

   MS. WINGATE: I don't think that's permitted.
I think it has to come from an official. You're
in -- I don't -- I don't know how that works.

   CHAIRMAN SALADINO: I disagree. I think I
have --

   MS. WINGATE: I think it's very clear.

   MR. TASKER: Zoning Board of Appeal can't
sua sponte raise a question and then answer it.

   MS. WINGATE: Yeah, I don't -- I think it's

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the Village Administrator's -- if you'd like me to rethink the question, I can certainly work on that, but --

CHAIRMAN SALADINO: I think the question should be where is multi-family housing, in what zoning districts is multi-family housing a permitted use. I mean, I don't know why we're trying to reinvent the wheel here.

MS. WINGATE: Well, that's not my -- that's not my question. That could be your question, but it's --

CHAIRMAN SALADINO: Well, perhaps you should explain your question. We've given our opinion.

MS. WINGATE: You have a section of the code that's unusable, because I don't know where to apply it. Where is -- where is 150-18 the criteria for development? That's what I -- that is the question. I know where multi-family -- I have a sense for myself for the past 12 years where multi-family is permitted and not permitted. I want to know --

CHAIRMAN SALADINO: And we'll hear those reasons if and when this Board votes on the public hearing.

MS. WINGATE: Right.

CHAIRMAN SALADINO: And I'm willing to do it.
So, in your mind, Chapter 150-18 would have to be included in this request to see which zoning districts multi-family housing is --

MS. WINGATE: Where these guidelines are to be applied, because they don't fit nicely anywhere.

MR. PROKOP: Could I offer a suggestion to Eileen to help her to write out and sort of frame it --

CHAIRMAN SALADINO: I would like to -- I would like to discuss this a couple of more minutes here, because maybe we could get this done tonight. This is -- this is too easy. This is -- this is too easy a question to put off 30 days and then another 30 days.

MS. WINGATE: I don't have --

CHAIRMAN SALADINO: I mean, we've -- it's two months that we're debating --

MS. WINGATE: It's two years, John, that you and I have been, you know, hashing --

CHAIRMAN SALADINO: It's been two months. It's been two -- you know, what we talk about is what we talk about, but it's been two months that this has come before the Zoning Board, and --

MR. TASKER: It isn't right.

CHAIRMAN SALADINO: So, Arthur, your opinion

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is we should not honor the request? She's making a
request. If that's the request, so be it.

MR. TASKER: When it's time to vote, you'll
see --

CHAIRMAN SALADINO: No, no. What I'm saying
is --

MR. TASKER: Yes.

CHAIRMAN SALADINO: You just -- you just --

MR. TASKER: This question is not ripe.

CHAIRMAN SALADINO: You just said it would be
a very short meeting, a very short public hearing.
So be it. So be it. The question is -- this is the
request that the Building Inspector is making.

MR. TASKER: Well, my point of a very short
meeting is wheel-spinning.

CHAIRMAN SALADINO: Well, most
interpretations, most public hearings for
interpretations, the public really doesn't have that
much to offer. It's a question of how the code is
written. I mean, if this is what's being requested
of us, I'm just not sure how we can say no, we don't
want to take this up, because it might be a short
public hearing, or we might be spinning our wheels
next time. I think a lot has to do with how the
Attorney writes the public -- or the Building
Inspector writes the public notice, also.

MS. NEFF: Well, maybe we should hear what the
Attorney would suggest as a way to frame this. And
I think that --

CHAIRMAN SALADINO: He didn't say he was going
to suggest it to us, he said he was going to help
her write it.

MS. NEFF: I'm not sure --

CHAIRMAN SALADINO: I thought perhaps we
could -- we could handle this tonight.

MR. PROKOP: Any way that it would be of
assistance to you, I'm more than willing to spend my
time to do it. I just suggested something, that's
all. Whatever you'd like me to do.

MS. NEFF: And I also think that our time
to -- if we pose what parts of the code, in addition
to this, with the definition, if there are, telling
the public exactly what it is that we want to look
at and making it available at the meeting, and
listening to what some of the members of the public
have to say, I found helpful at times, lengthy at
times.

CHAIRMAN SALADINO: I'm not sure what you're
suggesting. Of course that would all be --

MS. NEFF: I'm saying I don't agree with you to

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say that often, you know, the public doesn't
contribute very much. Is that --

CHAIRMAN SALADINO: As far as interpretation,
that's been my experience.

MS. NEFF: Yes, okay.

MS. WINGATE: Folks, I am really ever so
sorry.

MS. NEFF: Okay.

MS. WINGATE: Let me know how you all want --
I'll be glad to rewrite the question, if it's -- if
I haven't articulated --

CHAIRMAN SALADINO: Is that yours? No.

MS. WINGATE: That's Joe's.

CHAIRMAN SALADINO: Oh, okay.

MS. WINGATE: If I haven't articulated my
question, but I -- that is my question. You may
want to phrase it differently.

CHAIRMAN SALADINO: Thank you. Thanks.

MS. WINGATE: Have a good night.

MS. NEFF: Yes.

(Eileen Wingate left the meeting.)

CHAIRMAN SALADINO: I would like to resolve
this tonight. I would like to get this off our
plate tonight. Next month is -- it doesn't seem
like, you know, a two-sentence request should -- and
as far as what's included in the public notice or
what we present to the public, I mean, that's our
option. We could do it, as far as -- I'm not
sure -- even sure what he's suggested. Repairing
every portion of the code that deals with
multi-family housing and provide that to the public?
The code is online.

MS. NEFF: Yeah, but you have to tell people
what it is you're looking at. I mean, just to say
that it's online is too broad.

CHAIRMAN SALADINO: I'm not going to request
that the Building Department print out the -- every
portion of the code that relates to multi-family
housing, 25 or 30 pages, and have it available next
month to a packed house because of the anticipated
public hearings and stuff. You know, I'm not going
to ask her to do that. I'm sure we can articulate
it to the public. We seem to get along with the
public, you know. We don't deny them any questions.
Any question they have we're more than willing to
answer.

MR. CORWIN: I second the motion on the floor.

CHAIRMAN SALADINO: I'll call for a vote.

David -- I'll take a roll call vote, since there's
some -- David?
MR. CORWIN: Yes.

CHAIRMAN SALADINO: Dinni?

MS. GORDON: No.

CHAIRMAN SALADINO: Ellen?

MS. NEFF: No.

CHAIRMAN SALADINO: Arthur?

MR. TASKER: No.

CHAIRMAN SALADINO: I'll vote yes. I'm not sure -- I just have to ask the members. I'm not sure how we not vote to accept this, regardless whether we think it's spinning our wheels or not. This is a valid request from the Building Department. I don't know how -- I don't know how we -- because we -- I don't know how we turn it down. I'll ask the Attorney.

MR. PROKOP: Well, you know, we have the procedure of accepting -- you know, technically accepting applications that we've given ourselves. I think that we have a request and we should act on the request. We framed the -- I think that we framed the action on the request in the terms of accepting it or not accepting it, but I think that -- I think that that may misconstrue exactly what the action was that just took place.

And I think that if the public -- we have in

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our code that an official can ask for a request for
-- can make a request for an interpretation to the
Zoning Board of Appeals. It's in the State Law that
the Zoning Board of Appeals shall render
interpretations, and I think that the Board needs to
act on the request, not short-circuit it by whether
or not they technically, quote, unquote, accept the
application or accept the request.

CHAIRMAN SALADINO: Where does it --

MR. PROKOP: Action being -- in other words,
action being it's not -- you know, it is clear, it's
not clear, we're going to -- you know, we're going
-- here's our interpretation. I meant action like
that, rather than, quote, unquote, we're not going
to accept it.

CHAIRMAN SALADINO: I'm not even sure. I
understand Arthur's concerns. I'm really not sure
about Dinni's or Ellen's.

MS. GORDON: No, I --

CHAIRMAN SALADINO: I just -- I don't
understand.

MS. GORDON: I agree. I'm with Arthur on
this. I think the meaning of any portion of the
text, I mean, it's not this -- I think Chapter
150-18 is irrelevant for the purpose for which the
request has been made, and maybe I would feel
differently if the request had been worded to --

CHAIRMAN SALADINO: What about the second
portion of the request, the requested interpretation
should include which zoning districts should use
150-18 as a guideline for development?

MS. GORDON: Is that an interpretation of the
portion of -- any portion of the text? I don't
really think so.

CHAIRMAN SALADINO: Well, that brings the
question, do we have -- do we have the right to say
no? The Building Inspector is asking for an
interpretation that either you're not sure of or --

MS. GORDON: She can ask for some -- she can
ask for something else.

CHAIRMAN SALADINO: She's asking for this.
The Building Department is asking for this. Whether
it's --

MS. GORDON: Well, is she really -- isn't she
asking for an understanding of -- she referred to
the fact that there are other mentions of
multi-family housing in the chapter. Is she asking
for those, too, for the definition, for instance? I
don't think it's clear.

MR. TASKER: If I may, in support of what
Dinni's saying. If we answer this question, we
won't have an answer to what the Building Inspector
is interested in. If we confine it to the
interpretation within the four corners of 150-18,
we're going nowhere. It's, therefore, appropriate
to have turned down --

CHAIRMAN SALADINO: I disagree.
MR. TASKER: -- the request.
CHAIRMAN SALADINO: I disagree. I think -- I
think to this --
MR. TASKER: So you would go outside the four
corners of 150-18.

CHAIRMAN SALADINO: No. I would say the
request is where is 150-18, what zoning districts is
150-18 used for development. 150-18 is for
multi-family housing, development of multi-family
housing. We've already decided that it wouldn't be
in the R-1 or the WC.

MR. CORWIN: Well, can't we just move ahead
and schedule it, and if it doesn't work out, we can
always have a do-over? And next month we're going
to have a whole bunch of stuff on the agenda, so we
need to move it back to, hopefully, March.

CHAIRMAN SALADINO: David, I agree with you.
MR. PROKOP: Can I make a comment?
CHAIRMAN SALADINO: Sure.

MR. PROKOP: Maybe follow up on the question you asked me before. You know, I don't think that anybody that -- all of you have many years of experience in zoning and planning in the Village, and I don't think that there's any question that this section that we're looking at, 150-18, sort of hangs by itself in the code and it's not clear what it attaches to.

There's another part of the discussion which is that we have -- we have uses in the Village which are actually mixed use buildings, which is a building that has a retail first floor, or a nonresidential first floor, and then a second and/or third floor of residential, which may be more than one family, or, you know, more than one apartment. And that's not multi-family, as we understand this, as I've been told by the Building Inspector. That's a mixed use building, which under the State Code is different.

And I think that there's -- I think that it's important that this be -- excuse me. I don't want to -- I want to offer you legal advice, not my opinion about whether you should -- you know, I'm sorry, so I back off that a little bit. But I think...
that -- I have to say that I believe that legally, there is a -- not an inconsistency, but just an opening in the code that's unclear, and as far as how it should be applied, and I think that there's probably general agreement about that. I don't know if that -- if everybody agrees with me or not about that, but I think from my standpoint, that's my feeling.

If it's difficult to frame the question, I think that that reflects on the difficulty of the question itself, and that we should not turn down the entree to the -- you know, the request to start this discussion, because it's an important discussion for the Village, merely because the question itself is so difficult that it's hard to put it into a simple question.

So I -- there's a threshold that I think that hasn't been met as far as turning this back. You know, I think that the Building Inspector has the right to come to you and ask for an interpretation, and her -- if the question hasn't been -- the question itself needs to be discussed about how it should be framed for us. I think that, as I said, that that's a reflection of the difficulty of the question itself, not that we should not take it.
MS. GORDON: Doesn't the -- your identification of this gap in the code suggest then that this is a matter for the Legislative body to be considering and not for us?

MR. PROKOP: It could be addressed legislatively, yes. I'm not saying one way or the other, but it could be addressed legislatively, yes.

MR. TASKER: There's another perspective in which 150-18 can be viewed and that is this: That when the conditional use, excuse me, of converting an existing dwelling in an R-2 to a one-family dwelling was added to the code, whether it was when the code was first written or when the code may have been subsequently modified, and we'll find that out before we meet next, I assure you, but whether the -- whether the addition of conversion of existing dwelling to a multi-family dwelling, as provided in Article VII, which is, in fact, 150-18.

What that means is that we're going to -- we're going to let conditionally buildings in R-2 be converted to multi-family, so long as they meet Section 150-18. In other words, let's not get the cart before the horse. 150-18 doesn't say anything about where it may or may not be applied.

150-8(B)(2), Converting an Existing Dwelling to a
Multi-Family, does say about where a multi-family
dwelling can occur and --

MS. NEFF: What was the item in the code you
just cited, that number?

MR. TASKER: 150-8(B)(2), Converting an
Existing Dwelling to a Multi-Family Dwelling,
following the rules for how the building will be
constructed set forth in 150-18. That puts the cart
before the horse.

So, instead of looking at 150-18 as this
hobgoblin out there hanging over potentially every
district in the Village, let's look at it as an aid
to converting an existing dwelling, as provided in
150-8(B)(2).

CHAIRMAN SALADINO: No, because that doesn't
apply in all the zoning districts. The question
here is --

MR. TASKER: That's right.

CHAIRMAN SALADINO: -- where, in what zoning
district will these standards be applied.

MR. TASKER: Where multi-family dwellings are
permitted district by district. There is only one
district in which multi-family dwellings are
mentioned in the Village. It doesn't show up in
R-1, it doesn't show up in CR, it doesn't show up in
WC, it shows up only in R-2, and then in a very
constrained manner.

CHAIRMAN SALADINO: Well, I believe that's
what raises the question with the Building
Inspector. The Building Inspector's contention and
the reason she's asking for an interpretation is her
opinion is it's raised in more than that, and she
concedes that it's not in the R-1 or the WC. Her
contention is, is that multi-family dwellings would
be permitted, is a permitted use in the CR.

Arthur, it's not -- this is not the time and
the place for you and I, for us, for this Board to
argue this. This is -- I mean, we had a request
from the Building Department. Whether some of us
think it's legitimate or some of us think it's
misworded, or at the public hearing we'd be spinning
our wheels, I'm not sure we have the right to make
that -- we could certainly have that opinion. I
don't think we can -- I just don't think we have the
right to say no, we're not going to take this up. I
mean, it's a legitimate request. Whether we think
it's --

MR. TASKER: I'm not opposed to taking up the
right question.

CHAIRMAN SALADINO: But she has the right to

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ask whatever question she wants. It's not for us to
decide if it's the right question. If it's the
wrong question, it will take us a few minutes to
make an interpretation that, no, this is not it.
But we should at least afford the Building
Department the right to ask the question and make
their case.

As with interpretations, we know, for all of
us that have been through it, we hear from the
person asking for the request, we hear from the
public, we hear from the Attorney, we offer our
opinion, and then a decision is made. I don't know
why -- I just don't understand how we can say no.
I'm not -- I mean, it's --

MR. PROKOP: Well, maybe the way that -- the
way that the Board has the right to modify variances
that are requested, I think that you could apply
that to this. And if you think that the question
should be -- you know, the question has been put to
the Board now for an interpretation and it's
regarding this particular section. If you think
that the -- there's a particular way that this
should be framed, then maybe that's what the Board
should do, just decide exactly what the question is
that you're going to address.
CHAIRMAN SALADINO: I think we do that all the time. I think -- I think we do that all the time, and I'm just -- I'm just -- I hear what the Attorney says. I'm just -- I'm just not sure why we can't modify this request to include that. You know, if there's a question about exactly where -- I mean, our conversations travel in a lot of different directions at times.

MR. CORWIN: Come on, guys. Half an hour over this? We're getting no place. Let's schedule the public hearing. If it --

MS. GORDON: We voted against it.

MR. CORWIN: If it works, fine. If it doesn't work, fine. We can always have a do-over.

CHAIRMAN SALADINO: David, I -- the members voted against it. I mean, I don't -- this is virgin territory for me. I don't know what happens now. You know, I think -- I, personally, me, personally, I think we're overstepping our bounds by saying no. I haven't heard a legitimate enough reason to -- you know, basically, the people that voted no, Dinni, Ellen and Arthur, they just don't like the question. I don't think we have the right to decide if we like the question or not.

MS. GORDON: But if the purpose is to respond
CHAIRMAN SALADINO: It's not our -- it's not our -- it's not our position, it's not our job to determine what her purpose is. Our job, if it's a legitimate request --

MS. GORDON: But we can ask her to reframe her question. We are responding to the question she asked.

CHAIRMAN SALADINO: But she doesn't want -- but she -- no. You're responding -- she didn't choose to reframe her question. Her question to her seemed clear. If it's not clear to this Board, after we schedule a public hearing, and after we notice and schedule a public hearing, then that opinion shouldn't be reflected -- shouldn't be expressed now, it should be expressed at that time, after, and we'll say, "No, this is not a clear question."

I just don't understand how we don't allow her her day in court, because you're not happy with the way the question is phrased. It's her right to phrase the question any way she wants it. I think we're overstepping. I think we're overstepping our bounds by refusing to respond to her.

MR. PROKOP: I'm --
MS. NEFF: Could I ask a question?

MR. PROKOP: Yes.

MS. NEFF: Does anyone recollect, when did 150-18 enter the Greenport Code? Because if you look at what's -- some of the things that it says, such a description of a building or --

CHAIRMAN SALADINO: What year did -- excuse me.

MS. NEFF: It doesn't exist.

CHAIRMAN SALADINO: David, what year did they build -- what year did they build the --

MR. CORWIN: 1970s, I don't know what year.

CHAIRMAN SALADINO: That's when it came.

MS. NEFF: Okay.

CHAIRMAN SALADINO: We all know why it was put in. We all know why it was --

MS. NEFF: No, I don't know.

CHAIRMAN SALADINO: Well, I'm not about to get -- after they shut these microphones off, I'll explain it to you.

MS. NEFF: Okay. But, in fact, the multi-family, as it existed in the Village in very many forms, and this particular 150-18, they're kind of like definitely apples and oranges, they're not -- they're actually -- you know, they're very
different. And to look at this question of maybe a
question framed, maybe even with a couple of parts
where we're talking about multi-family and an
interpretation, that would make some sense to me.
In the absence of that, when we deal with a
particular parcel and a request by someone to do
something to it, in other words, we're talking about
variations, we're not promulgating an
interpretation, but looking at all the factors, that
also makes sense to me, that we do that all the
time. But I don't understand this question, just
look at this, what code -- what districts can we put
it in, I don't understand that.

CHAIRMAN SALADINO: I think it's a fairly --
not to be disrespectful, I think it's a fairly
simple question.

MS. NEFF: But, again, if you look at the
measurements, there are so few parcels that this
could remotely have anything to do with.

CHAIRMAN SALADINO: It's more about -- Ellen,
you're missing the point. It's more about -- it's
more about is it a --

MS. NEFF: Where might it be?

CHAIRMAN SALADINO: No.

MS. NEFF: Yeah.
CHAIRMAN SALADINO: Is it a permitted -- is it a permitted use? Is it a permitted use? If it is a permitted use, then it has to comply with these dimensions as an area variance. If it's not a permitted use, then whoever would like to build a multi-family unit dwelling in a zoning district that's not a permitted use would have to first apply for a use variance.

MS. NEFF: I follow, yes.

CHAIRMAN SALADINO: And then apply if the --

MS. NEFF: For other -- for other variances.

CHAIRMAN SALADINO: I mean, it seems --

MS. NEFF: Yeah.

MR. PROKOP: Well, I think that if the Board -- again, I'm just offering my assistance, and, please, if it's not being helpful, let me know. But I think the Board is -- it would be helpful to have this discussion in public, but if the Board, several Board Members are adamant that they have a clear view, a clear view of this, and I'm not disagreeing or agreeing, as you heard it, it would be -- that would be the interpretation, basically. You know, that -- I don't know that that's the reason not to accept the question -- not to accept the request for interpretation, but that would be your
interpretation.

CHAIRMAN SALADINO: I --

MR. CORWIN: Well, let's take this up again next month. Put it on the agenda next month. Let's adjourn. We're not getting anywhere. This is pointless.

MS. GORDON: And we have voted.

I have a question on another matter. What happened to Kimask on Sixth Street? We were going to deal with that this month?

CHAIRMAN SALADINO: No.

MS. GORDON: Oh. It was tabled until the January meeting.

CHAIRMAN SALADINO: What happened was --

MS. GORDON: Is it now before the Town?

CHAIRMAN SALADINO: What happened was -- what happened was, is that a discussion between the Planning Board, the Planning Board Chairman, the Attorney, the Village Administrator, myself about a process. It was decided by the Village, not by me, not by the Planning Board, it was decided by the Village that whenever there's an application, in the future, whenever there's an application for a subdivision, the applicant will present a sketch plan to the Planning Board, as he does. The
Planning Board now will accept that sketch plan.

MR. TASKER: Or not.

CHAIRMAN SALADINO: The Planning Board will have the option to accept that sketch plan. If they accept it, they'll declare themselves -- most probably, they'll declare themselves Lead Agency, so they can still have some control over SEQRA. And then if there's zoning attached to that application -- that subdivision, what they'll do is they'll refer it to the Zoning Board with opinions, which is State Law.

MR. PROKOP: Recommendation.

CHAIRMAN SALADINO: Recommendations about the zoning --

MR. PROKOP: So when it comes to us from the Planning Board in the future, what will be different is it will come to us with a recommendation as to the variances.

CHAIRMAN SALADINO: But only the subdivisions.

MR. PROKOP: Only for subdivisions.

CHAIRMAN SALADINO: Only for subdivisions.

MS. GORDON: And this will apply to Kimask?

CHAIRMAN SALADINO: I don't know. This application is not in front of us now.

MS. GORDON: Okay.
CHAIRMAN SALADINO: This application, I believe it was --

MR. TASKER: It's not accepted, correct?

CHAIRMAN SALADINO: Well, there's a -- I have a question about that. This application now was supposed to be in front of the Planning Board, I believe. But since the Planning Board's meeting was --

MR. PROKOP: It's still in front of the Planning Board. They just have to have a meeting to --

CHAIRMAN SALADINO: It was on their last agenda.

MR. PROKOP: It will be on their next agenda.

CHAIRMAN SALADINO: It will be on their next agenda, the 29th, I believe.

MR. PROKOP: Yes.

CHAIRMAN SALADINO: And then they'll either accept it or deny it. If they deny it, if they use that word "deny", it doesn't come to us, it goes for judicial review, right, if it's denied?

MR. PROKOP: Yes.

MR. TASKER: If they choose.

CHAIRMAN SALADINO: If it's referred to us, it will be as the Attorney said. We'll get a report.

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from the -- from the Planning Board with recommendations, and that will be part of our discussion. And then we'll rule on any variances. And then whatever decisions this Board makes, that will be sent back to the Planning Board. So that's what's happening with Kimask.

MS. GORDON: Thank you.

CHAIRMAN SALADINO: Anything else before we -- anybody got anything to say? Any members of the public?

MS. ALLEN: Just disappointed with number 5. I agree with you wholeheartedly, John.

CHAIRMAN SALADINO: Well, that's moot now.

MS. ALLEN: Yeah.

CHAIRMAN SALADINO: That's moot. All right. I'm going it make a motion to adjourn.

MR. TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MS. GORDON: Aye.

MS. NEFF: Aye.

MR. TASKER: Aye.

(Whereupon, the meeting was adjourned at 6:54 p.m.)
CERTIFICATION

STATE OF NEW YORK )
) SS:
COUNTY OF SUFFOLK )

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

THAT, the above and foregoing contains a true and correct transcription of the proceedings taken on January 17, 2017.

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

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of January, 2017.

Lucia Braaten

Flynn Stenography & Transcription Service
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**ZONING BOARD OF APPEALS 1/17/17**

### 1

1. **1001-5-4-5**

### 2

2. **1/17**

### A

- **abolish**
- **abolished**
- **absence**
- **ACCEPT**
- **accept**
- **accepting**
- **accepted**
- **appeal**
- **appeals**
- **applicant**
- **applicanct's**
- **application**
- **address**

### B

- **bearing**
- **beginning**
- **between**
- **beyond**
- **bit**
- **blood**
- **BOARD**

### C

- **ALLEN**
- **Aid**
- **Agree**
- **agreeing**
- **Agenda**
- **Agency**
- **approving**
- **approve**
- **APPROVE**
- **area**
- **argue**
- **ARTHUR**
- **Arthur**
- **assure**
- **assurance**
- **BRAATEN**
- **Braaten**
- **bring**
- **brings**
- **build**
- **buildings**

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