VILLAGE OF GREENPORT
COUNTY OF SUFFOLK  STATE OF NEW YORK

ZONING BOARD OF APPEALS
REGULAR SESSION

Third Street Fire Station
Greenport, New York

January 21, 2020
6:00 p.m.

BEFORE:
JOHN SALADINO - CHAIRMAN
DAVID CORWIN - MEMBER
JACK REARDON- MEMBER
ARTHUR TASKER - MEMBER

ROBERT CONNOLLY - ZONING BOARD ATTORNEY
PAUL PALLAS - VILLAGE ADMINISTRATOR
AMANDA AURICHIO - CLERK TO THE BOARD
(The meeting was called to order at 6:02 p.m.)

CHAIRMAN SALADINO: Folks, this is the Village of Greenport Zoning Board of Appeals regular meeting.

Item No. 1 is a motion to accept the minutes of the December 17th, 2019 Zoning Board of Appeals meeting. So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER REARDON: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Item No. 2 is a motion to approve the minutes of the November 19th, 2019 Zoning Board of Appeals meeting. So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER REARDON: Aye.

CHAIRMAN SALADINO: I'll vote aye. Any abstentions?

MR. CORWIN: Abstain.

CHAIRMAN SALADINO: Did we have three ayes?

Do we have -- did you vote aye?

MEMBER TASKER: Yes.
CHAIRMAN SALADINO: Three ayes and one abstention.

Item No. 3 is a motion to schedule the next Zoning Board of Appeals meeting for February 18th, 2020, at 6 p.m., at Station One of the Greenport Fire Department. So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER REARDON: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Item No. 4 is 415 Kaplan Avenue. It's a Public Hearing regarding the application of 415 Kaplan Avenue Incorporated for the property loaded at -- located at 415 Kaplan Ave,

Greenport, New York 11944.

The applicant has asked for an interpretation of Section 150-13(E) of the Greenport Village Code to determine if the proposed improvements require a use variance.

The property is located in the R-2 (One and Two-Family) District. The property is not located in the Historic District. The Suffolk County Tax Map Number is 1001-4.-1-6.
And for the public that's interested, the notice is attached, I believe.

MR. OLINKIEWICZ: That's correct.

CHAIRMAN SALADINO: Public notice?

ADMINISTRATOR PALLAS: Attached to the agenda.

CHAIRMAN SALADINO: Is attached to the agenda.

ADMINISTRATOR PALLAS: Last page.

CHAIRMAN SALADINO: And the public notice is attached to the agenda.

We're going to ask the Clerk if this was -- this was noticed in the newspaper. And there are no mailings, right, for an interpretation?

ADMINISTRATOR PALLAS: Correct.

CHAIRMAN SALADINO: Am I getting that right, there are no mailings for interpretation?

Before Jimmy -- before the applicant gets up, I'm just going to for the public, so -- and this, just for the public, this is only on the code, only on how the code is worded. It's not about the -- it's not about the application, it's not about the building, it's not -- it's just about how the code is worded. We're going to decide if the Code Enforcement Officer correctly
interpreted the code.

So I'm going to read the -- just a couple of things from New York State, from our code. "The ZBAs may not issue advisory opinions, but, rather, may only be asked to interpret the law after an administrative official has made a decision." That's how we got here. "When hearing appeals or requests for interpretations, the ZBA must review the local zoning law and apply that law to the case in hand. Each appeal must be viewed on a case-by-case basis in light of local provisions. It's important to note that a ZBA interpretation of its own zoning regulation is entitled to great deference and will not be overturned by a court, unless unreasonable or irrational."

We're going to let the applicant make his case a little bit, and then --

MR. OLINKIEWICZ: James Olinkiewicz, 415 Kaplan Avenue. I was actually -- I was asking for an interpretation, because I think that the Building Department made a wrong decision on asking for a use variance in that it was an area variance. So I took it upon myself to print the definitions of area variance and use
variance from New York State that's represented in the General City Law, Town Law and Village Law. So --

MEMBER REARDON: Thank you.

MR. OLINKIEWICZ: You're welcome.

MEMBER TASKER: Thank you.

MR. OLINKIEWICZ: Would anybody care for one?

So the definition, based on New York State, for an area variance is, "The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the application." So, because the property is 53 feet wide, it doesn't meet the dimensional requirements for the two-family. So based on that dimensional, it reads right there, my thought is it should be an area variance, because if you turn down the area variance for the property, then it would then go and be rolled to me then applying for a use variance.

It's under my thoughts that the area variance has to come first. If you deny the application based off of the area variance, then it goes to use variance, which is, "The authorization of Zoning Board of Appeals for the
use of land for the purpose which is otherwise
not allowed or is prohibited by the applicable
zoning regulations."

CHAIRMAN SALADINO: The Notice -- can I
talk?

MR. OLINKIEWICZ: Sure.

CHAIRMAN SALADINO: The Notice of
Disapproval that we have in front of us is for a
use variance

MR. OLINKIEWICZ: Correct. I had
originally applied for an area variance. It was
sent back to me and I was told that I had to go
for a use variance. I then was told that I had
to argue my case here, that it's supposed to be
an area variance, thus, I asked for the
interpretation. They have -- the Village has
both an application for an area variance and an
application for the use variance. So it -- so
that's why I --

CHAIRMAN SALADINO: I just misunderstood.
I thought you said you were progressing this
interpretation for an area variance. This Board
tonight is going to --

MR. OLINKIEWICZ: I'm asking the Board to
interpret that this is not a use variance and
that this is an area variance. So that's the interpretation that I'm asking for. And I'm not sure if everybody understood that from the last meeting when I was up here, so I brought up the definition of the area variance. That was the interpretation I was asking for, not about the code, per se, because the Village Code is the Village Code, but that the actual -- I should have been put in front of an area variance first.

If denied for the area variance, then I would have to apply for the use variance.

MEMBER TASKER: Well, since we're talking about procedural issues, I'm looking at your application to the ZBA for a use variance. I'm not sure of the date, but we know which one it is, and the type of -- at the bottom, it indicates the type of appeal an appeal is made for, and what is checked off is an interpretation of the Village Code, Article 5, Section 150-13(E), which is the section that deals with existing small lots.

MR. OLINKIEWICZ: Correct.

MEMBER TASKER: So your --

MR. OLINKIEWICZ: The --

MEMBER TASKER: Excuse me. Your
application is for an interpretation of what does
the -- how does the existing small lots provision
apply. It's not -- your application does not
look for a determination of is this an area
variance or a use variance.

MR. OLINKIEWICZ: Arthur, we applied three
different times to the Village on this. We
handed the first application in for an area
variance. It was then kicked back to us and said
no, that it had to be a use variance. So we
reapplied as a use variance, but we labeled that
we were objecting and that we thought it should
have been an area variance. It was kicked back
to us again, and we filled out a third
application that went in to stipulate this,
because this is what the Village Administration
had told me I had to apply for to get here in
front before I could go and find out if I'm
actually applying for an area variance. So I can
bring you three applications that show I applied
for everything across the board.

MEMBER TASKER: I know what you've been put
through and I appreciate that, but we could only
look at the application that is in front of us,
and that is for an interpretation of the small
lot provision of 150-13(E).

MR. OLINKIEWICZ: So my --
MEMBER TASKER: Mr. Chairman, I --
MR. OLINKIEWICZ: My question back on that
is that if I keep asking and I get sent down the
wrong road, then I have to start back and go back
and start all over again for a whole new
interpretation and a whole new public hearing? I
mean, this is not my fault that I got sent to
three different applications.

CHAIRMAN SALADINO: No, Jimmy. No.
MEMBER TASKER: No.

CHAIRMAN SALADINO: No. What's going to
happen tonight is this Board is going to hear
what you have to say, they're going to listen to
whatever the public has to say. I assume we'll
close the public hearing. We'll read -- I could
do it now, or, if you want to wait, we'll read
the portion of the code that the Building
Department is applying to your application.
We'll debate it, and we'll either affirm it or
deny it. If we affirm it, you'll have to
progress this application as a use variance. If
we deny it, it will go as an area variance, or
you'll apply as an area variance. But you knew,
you knew last month when we talked about it, this
interpretation has the weight of a public
hearing.

MR. OLINKIEWICZ: Correct, correct.
CHAIRMAN SALADINO: Whatever was -- and I
believe I told you, whatever is decided here
tonight will dictate what happens next month.

MR. OLINKIEWICZ: I understand that. But
now if I'm denied on the use variance for the
small lot --

CHAIRMAN SALADINO: No, the denial -- if we
issue a denial tonight, it will be a denial of
the CEO, the Code Enforcement Officer's
interpretation of the code. If we affirm it, if
we vote yes, if we affirm it, it will say we're
agreeing with the Code Enforcement or the
Building Department's interpretation, application
of the code. Am I getting that right?

MEMBER TASKER: I think you got it
backwards. If we deny this application for an
interpretation --

CHAIRMAN SALADINO: No, no, no. If we
affirm -- if we affirm the Code Enforcement
Officer's --

MEMBER TASKER: Interpretation.
CHAIRMAN SALADINO: -- of the code --

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: -- then he'll have to

apply for a use variance.

MEMBER TASKER: Okay.

CHAIRMAN SALADINO: If we deny the Code

Enforcement -- the Building Department's

interpretation of the code, it will give him the

opportunity to apply for, if he chooses to do so,

for an area variance.

MEMBER TASKER: As long as we know the

implication of our decision, that's all.

MR. OLINKIEWICZ: So right. But my

question goes to that, is what happens if I'm in

front of the Board for the wrong part of the

code, right? Like if you agree -- his

interpretation may be correct, that a small lot

is considered -- it's considered a small lot

because it's less than 60 feet wide, but that

doesn't mean that it should have been a use

variance application before, it should have

been --

CHAIRMAN SALADINO: I'm going to -- I'm

going to -- if you'll allow me, I'll read that.

I'll read that. Do you want to stay there? I'll
read this.

MR. OLINKIEWICZ: Yeah, please.

CHAIRMAN SALADINO: The Notice of Disapproval is 150 -- 150-13(E), is existing small lots are only allowed to have a one-family residence constructed -- constructed on them. So that takes it out of the dimensional thing.

"Existing small lots. A lot owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total lot area or lot width less than prescribed in this chapter, may be used for a one-family residence, provided that such lot" -- and then it goes on to say, "Provided that such lot shall be developed in conformity with all applicable district regulations."

So that's the Notice of Disapproval. One of the rules that we have to work under is the definition of interpretation. This is from New York State Village Law, Planning and Zoning outline. "Where the language of a statute is clear and unambiguous, the interpreting authority must give effect to its plain meaning. Words are not to be rejected as superfluous. In addition, it is a general rule in an interpretation of
statutes that the legislative intent is primarily
to be determined from the language used in the
act."

So that's -- that's what we have in front
of us. We're going to -- we're going to listen
to you, we're going to listen to whoever in the
public wants to speak, and then we're going to,
among the members, after we close the public
hearing, debate the information that we have.

MR. OLINKIEWICZ: Could you, please, repeat
why it's out of an area variance in the first
thing that you read, not in the New York State,
but in the other?

CHAIRMAN SALADINO: From the Notice of
Disapproval?

MR. OLINKIEWICZ: Yeah, could you -- why it
would be out of an area variance?

CHAIRMAN SALADINO: It says existing small
lots are only allowed to have a one-family
residence constructed on them. That's the code
enforcement's contention. 150-13(E) says,
"Existing small lots. A lot owned individually
and separately, and separated in ownership from
any adjoining tracts of land, which has a total
lot area or lot width less than prescribed in
this chapter, may be used for a one-family residence."

MR. OLINKIEWICZ: Okay. But it doesn't say can only be used for a one-family residence, it says may be used.

CHAIRMAN SALADINO: Well, "may", "may" in zoning means "shall"; am I --

MR. CONNOLLY: Right.

CHAIRMAN SALADINO: "May" is interpreted to mean "shall".


CHAIRMAN SALADINO: Well, we could ask the Attorney.

MR. CONNOLLY: Yeah.

MEMBER TASKER: Yeah.

MR. CONNOLLY: You're right.

CHAIRMAN SALADINO: Actually, we have another Attorney to ask, also. So that's just what we're going by here.

MR. OLINKIEWICZ: Okay.

CHAIRMAN SALADINO: Do you have anything to add?

MR. OLINKIEWICZ: (Shook head no.)

CHAIRMAN SALADINO: No? We're going to let
somebody else talk?

MR. OLINKIEWICZ: Yeah, it's somebody else's turn.

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

(No Response)

CHAIRMAN SALADINO: Really? Okay. Jimmy, you want to say anything else? No?

MR. OLINKIEWICZ: No.

CHAIRMAN SALADINO: Okay. So I'll make a motion that we close this public hearing.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MR. CORWIN: Aye.

MEMBER TASKER: Aye.

MEMBER REARDON: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

We have an agenda here. Item No. 5 on our agenda is a continuation of the Public Hearing regarding area variances requested by ANVK Holdings Trust (the Greenporter Hotel) for the property located at 326 Front Street, Greenport, New York 11944. The property is located in the C-R (Commercial Retail) District. The property is not located in the Historic District. The
Public Notice is attached. The Suffolk County Tax Map Number is 1001-4.-8-29-30-31. In the interest of full disclosure, I got an email from -- apparently, I'm the only one that got it. I got an email from the applicant saying that her attorney would be unavailable tonight and she would be unavailable, and she's requesting an adjournment. I'm going to ask the members if -- do we -- I'm searching for the words here. Do we want to -- do we want to adjourn this again, or is there a reason that we might have to close it?

MR. CORWIN: Well, the only reason is they're going to be hollering and screaming if we do.

CHAIRMAN SALADINO: I gave them all your phone number, David, so they'll call.

MEMBER TASKER: John, I think we've got a couple of choices here. In fact, we can simply adjourn it, as is suggested by the applicant, or we could continue to hold the hearing today. If there are people who have come here to this session of the Zoning Board who want to address the Board as part of the continued public hearing, we can do that and then adjourn it, or
terminate it. So we've got a number of choices that we can make.

CHAIRMAN SALADINO: Well, what do we think? Let me ask the public. Has anybody come here tonight to speak to this public hearing? No?

MS. ALLEN: No. I had issues here that --

CHAIRMAN SALADINO: I'm sorry?

MS. ALLEN: I pretty much said what I had to say on this application. I wish they would be here. This is like the third month in a row they haven't shown up.

CHAIRMAN SALADINO: Okay, okay. The other thing that we might do is perhaps -- I'm sorry.

MS. WADE: I just wanted to make sure that my written comments were accepted by you, were received.

CHAIRMAN SALADINO: Do we have --

MS. WADE: Randy Wade. Did you receive my emailed comments? It was over a month ago.

MEMBER TASKER: You sent them to the Board Members individually, I believe; is that correct?

MS. WADE: And I asked somebody to forward it to you, because I didn't have your email.

MEMBER TASKER: I'm sorry. Yes.

MS. WADE: I did not have your email.
MEMBER TASKER: Yes.

CHAIRMAN SALADINO: Did we put them in the public record last month?

MEMBER TASKER: I don't think so. I think they were sent, Ms. Wade's email was sent directly to four members of the Zoning Board and to the Village Clerk to forward it to me, because she didn't have my email address. It was not addressed to the Village Clerk, it was not addressed to the Village Administrator, or to the Building Official, so --

MS. WADE: All right.

ADMINISTRATOR PALLAS: I have copies in the file.

CHAIRMAN SALADINO: The copy's in the file?

MEMBER TASKER: I don't see it as a part of the public record.

MS. WADE: All right. So, Randy Wade, Sixth Street, Greenport. I request that the comments that I emailed to you were meant to be official comments, not just informal opinions.

CHAIRMAN SALADINO: I'm sorry, Randy.

MS. WADE: I meant for them to be my official comments, and not just informal opinions, emailed to you each individually.
CHAIRMAN SALADINO: Okay.

MS. WADE: If that's okay.

CHAIRMAN SALADINO: That's fine. And you kind of heard what's happening here tonight, right?

MS. WADE: Right. And if it can -- I'm happy to come back next month, also, so I don't have to take up --

CHAIRMAN SALADINO: Would you be satisfied if we -- if we just included your comments into the public record?

MS. WADE: Yeah, that would be great.

CHAIRMAN SALADINO: What I'm asking you is do you need to read them for the public, or are you satisfied for us to --

MS. WADE: I'm satisfied that they go into the minutes.

CHAIRMAN SALADINO: Okay.

MS. WADE: And that you would promise you'll read them. Thank you.

CHAIRMAN SALADINO: Well, we've all read them.

MS. WADE: You decision-makers.

CHAIRMAN SALADINO: We've all read them.

MS. WADE: Oh, thanks. Okay, that's great.
Thanks.

CHAIRMAN SALADINO: Okay.

MS. WADE: Did you have any comments on them? Are you allowed to say out loud?

CHAIRMAN SALADINO: Well, yeah, normally, we certainly would be. But, right now, the question in front of us is, is what are we going to do with this public hearing.

MS. WADE: You're right.

CHAIRMAN SALADINO: So I don't want to add to the record, I don't want to add our comments. And the applicant has requested that we adjourn the public hearing.

MS. WADE: I would support her, her motion, then, that's another comment from me. Thank you.

CHAIRMAN SALADINO: All right. We're going to put Randy down for a yes vote. We're going to put her down for a yes.

(Laughter)

MS. WADE: Thanks, you guys.

CHAIRMAN SALADINO: So what -- the other thing is, is that we could -- we could keep the written record open for -- until the next meeting, close the public hearing, keep the written record open until the next meeting. Keep
the written record open, what is it, 30 days, two
weeks or 30 days? I'm not sure what else can be
said here, but I'll leave it up to the Board.

What do we think, guys? David?

MR. CORWIN: Well, we pretty much heard it
all, but just to keep the applicant happy, let's
adjourn it and leave it open.

CHAIRMAN SALADINO: You, too?

MEMBER TASKER: The applicant, apparently
through email, has submitted certain documents
and so forth relating to COs and so forth to one
of the members of the Village Board of Trustees.

Have -- are they a part of the record?

CHAIRMAN SALADINO: Her interaction with a
member of the Board of Trustees is outside the --

MEMBER TASKER: Is her own, yes.

CHAIRMAN SALADINO: -- is outside the
authority of this Board, you know.

MR. CORWIN: I believe that the C of O's
that were in that email were given to us
separately by staff, because I saw them in my
piles --

CHAIRMAN SALADINO: No, that's --

MEMBER CORWIN: -- my pile of stuff.

CHAIRMAN SALADINO: That's -- no. The
night -- the night that the attorney was here, Mr. Cuddy was here, he supplied the Board -- he supplied the Board with the copy of those COs. He also supplied the Board with an affidavit by a former official, by former Mayor Kapell, and we didn't have a chance to read them that night. We gave them to the Building Clerk, she made copies for us, and then distributed them to us in our mailboxes. But the night, the night that we got them, they were handed to us, but nobody -- nobody had a chance to read them.

MEMBER TASKER: Okay. They're -- we're satisfied that they're part of the public record.

CHAIRMAN SALADINO: The comment -- the comments that were supplied to us --

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: -- by Mr. Cuddy?

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I am.

MEMBER TASKER: And the ones referred to, which apparently are the same ones referred to in the email from the applicant to Trustee Phillips.

CHAIRMAN SALADINO: I would rather not even discuss that. I don't know what the -- I wasn't privy to the conversation between the applicant
and Trustee Phillips, so I don't know what went
on between the two of them. So maybe we'll just
leave that out of our conversation.

MEMBER TASKER: I'm content with that.

CHAIRMAN SALADINO: So we're going to --
we'll leave it -- we're okay with adjourning
this, right? We're okay with accommodating them,
adjourning this?

MR. CORWIN: I am.

CHAIRMAN SALADINO: Everybody? The only,
the only thing that I would like to add to that,
I received two or three -- two emails and one
personal conversation with people that were
concerned that we were unnecessarily prolonging
this.

(Laughter)

CHAIRMAN SALADINO: This public hearing. I
had to remind them that we were prepared to close
this public -- we're prepared to close this
tonight if the applicant was here. We were
prepared to close this public hearing three
months ago. We kept it open at the applicant's
request.

So to those people that are out there that
perhaps are watching, we're doing -- we're trying
to get it off our plate, but we don't seem to be able to.

I'm going to make a motion that we adjourn this public hearing and that the applicant -- and that the applicant request in writing to the Building Department, at least 15 days before our next scheduled -- a scheduled meeting, not our next meeting, that they request from the Building Department in writing to be put on the agenda. This way -- 15? When do applications have to be in?

ADMINISTRATOR PALLAS: That's the right -- two weeks.

MS. AURICHIOS: Two weeks.

ADMINISTRATOR PALLAS: Two weeks.

CHAIRMAN SALADINO: So we're going to ask the applicant to request in writing from the Building Department at least 15 days before a scheduled meeting. So moved.

MR. CORWIN: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER TASKER: Aye.

MEMBER CORWIN: Aye.

MEMBER REARDON: Aye.

CHAIRMAN SALADINO: And I'll vote aye.
Wow, that was -- so Item No. 6 is a discussion and possible motion on the area variances applied for by ANVK Holdings Trust. We're going to put a pin in that, because the public hearing is still open. And we're going to -- we're going to -- obviously, I must have left something off the agenda here, the discussion about the -- Mr. Olinkiewicz'.

MR. CORWIN: No. 7 covers it.

MEMBER TASKER: Yeah.

MR. CONNOLLY: I guess so.

MEMBER TASKER: I think she wanted it under Item 7.

CHAIRMAN SALADINO: I thought I -- I thought I had -- I thought I had included that, but we're going to have a discussion and a possible motion on the interpretation request.

Item No. 7 is any other Zoning Board of Appeals business that might properly come before this Board. We're going to -- we're going to have a discussion and a possible motion on the interpretation of Olinkiewicz, of 415 Kaplan Avenue Incorporated.

So I read, I read the -- I read our code.

I read our code. I read the rules of
interpretation. We have from the applicant the
definition of a use variance. I'm going to maybe
read it from this book, not that we don't trust
Jimmy for a copy of that that's a word that's --
use variances.

General City Law, Village Law defines a use
variance as the authorization by the Zoning Board
of Appeals for the use of land for a purpose
which is otherwise not allowed or is prohibited
by the applicable zoning regulations. If we --
if -- for myself, if I read this from New York
State law from the planning and zoning outline
from New York Conference of Mayors and Municipal
Officials, from one of the training seminars we
went to, I'll read it again.

"Where the language of the statute is clear
and unambiguous, the interpreting authority must
give effect to its plain meaning. Words are not
to be rejected as superfluous. In addition, it
is the general rule in the interpretation of
statutes that the Legislative intent is primarily
to be determined from the language used in the
act, considering the language in its most natural
and obvious sense. The ZBA is not authorized to
read new requirements into the applicable laws,
because the zoning code must be construed according to the words used in their ordinary meaning and not" -- "and may not be extended by implication."

Honestly, when I first saw this application, I says, well, it's a residential use in a residential district. The use is -- residential is permitted in that district. But then when you go back and you read the code, the code is specific. It's about -- it's about a specific use on a specific piece of property.

I have to go back to a previous variance that we gave and it's kind of opposite. It was where someone wanted to build a two-family house in a one-family zone, and that was -- that was progressed as a use variance. The same thing applied there, it was -- it was a residential building in a residential district, but it was still a use variance.

I understand variances don't carry the weight of precedence, every one is weighed, but where this was clear in my mind when I first saw the plans for this project, now not so much.

So I'll open it up to the Board.

MR. CORWIN: Clearly, it is an area
variance, to my thinking.

CHAIRMAN SALADINO: Do you have anything other to support that, just that's how you're thinking? Okay. Just a comment.

MEMBER TASKER: Let's take the -- a look at the different pieces of the rules that you read, John, particularly with respect to interpreting the meaning of the Legislature and the meaning of the ordinance itself, because that's what we have to base whether our interpretation -- because we're being asked to interpret the language. So let's look at where the language came from, from the Legislature, and is it plain, is it clear, is it ambiguous, is it not?

CHAIRMAN SALADINO: Well, I --

MEMBER TASKER: That should be the basis for our decision.

CHAIRMAN SALADINO: I have -- I have the Notice of Disapproval in front of me.

MEMBER TASKER: Yeah.

CHAIRMAN SALADINO: I have the code book here --

MEMBER TASKER: Yeah.

CHAIRMAN SALADINO: -- that I could -- we could read it. I'm assuming that what the Code

Flynn Stenography & Transcription Service
(631) 727-1107
Enforcement Officer wrote in the Notice of Disapproval reflects what's written in the code. I didn't -- I didn't compare them side by side.

MEMBER TASKER: Yeah, it does.

CHAIRMAN SALADINO: It does. So if we're going to take the plain meaning of the words in the code --

MEMBER TASKER: Let's start with is there any ambiguity in 150-13(E)?

CHAIRMAN SALADINO: We can read it again. "Existing small lots." That might be -- that might be open for some -- an interpretation of somebody's opinion, but then it goes on to say, "A lot owned individually and separately, and separated in ownership from any adjoining tracts of land, which has a total lot area or a lot width less than prescribed in this chapter, may be used for a one-family residence."

MR. CONNOLLY: And what's being proposed is a two-family residence, correct?

CHAIRMAN SALADINO: Yes.

MEMBER TASKER: Yes.

CHAIRMAN SALADINO: I'm just not sure how much plainer that can be.

MR. CORWIN: A one-family residence is
residential and a two-family residence is residential. If Mr. Olinkiewicz wanted to open a market there, then it would be a use variance.

CHAIRMAN SALADINO: I think, I think where it --

MEMBER TASKER: Permitting only, it doesn't say "only", but it says prescribed in this chapter, may be used for a one-family residence," indicates that although, generally, in residential, in an R-2 area, you would expect to be able to build a one or a two-family house. You can build a one-family house under these circumstances where it is under width.

CHAIRMAN SALADINO: So would a two-family --

MEMBER TASKER: It doesn't go on -- excuse me. It doesn't go on to consider whether you can put a store there or some other use than residential. It's -- the question is what kind of residential can be put there, and that's a use variance.

CHAIRMAN SALADINO: Well, that's my question to you, for the Board, for the Members. According to this portion of the code, according to this section of the code, on that lot, because
it says "land", it doesn't say "district", on that lot, a permitted use would be a one-family dwelling, one-family residence. That would be a permitted use. According to this, a two-family house, two-family residence, would not be a permitted use. So if it's not a permitted use, wouldn't the relief from that be a use variance?

MEMBER TASKER: Seems to me.

CHAIRMAN SALADINO: Can't you just build a one-family house?

MR. OLINKIEWICZ: Just economically doesn't make sense.

MR. CORWIN: But what I think has to be pointed out is that it's much harder to meet the requirements of a use variance than an area variance.

CHAIRMAN SALADINO: Well, that's -- that's not -- that's not our concern right now. That's not -- I don't believe that's anything we should be considering right now. You know, that's -- you know, right now, it's how this portion of the code is worded, and how the Code Enforcement Officer --

MEMBER TASKER: Applied.

CHAIRMAN SALADINO: -- applied it. That's
the only thing we should be considering now.
Right? Am I getting that right?

MEMBER TASKER: I think so. I mean, the
question is, is there any ambiguity? It doesn't
seem so. Is there any question about what the
intent of the people who wrote the Zoning Code
had in mind when they wrote that particular
section? And you infer that from the language of
the section itself, what the intent of the
Legislature was when they enacted this.

What happens if you follow, if you track
that section of the statute word by word or
phrase by phrase is a logical sequence of events.
You can't build any residence except a one-family
residence if the lot is under width.

CHAIRMAN SALADINO: Jack?

MEMBER REARDON: My interpretation is that,
you know, the lot supports a one-family home the
way it's written. He's applying for a use
variance and I think he's going down the right
road right now.

MEMBER TASKER: Well, that's the question,
if we agree with the interpretation --

CHAIRMAN SALADINO: He's challenging that.

MEMBER TASKER: -- which variance he's
going to be applying for.

CHAIRMAN SALADINO: I'm -- this, also -- maybe this will help, also. They give case law. I'm not going to read the case law. "In construing statutes, it's a well established rule that resort must be added" -- "that resort must be added to the natural significance of the word employed, and if they have a definite meaning, which involves no absurdity or contradiction, there is no room for construction, and courts have no right to add or take away from that meaning."

I don't know. In my mind, this is -- this is -- should I -- should I -- are we reasonably sure this is the way it's written in our code?

ADMINISTRATOR PALLAS: I could double-check right now, if you want.

CHAIRMAN SALADINO: Could you? This way we don't -- maybe we left a word out or --

MEMBER TASKER: Which one, John?

CHAIRMAN SALADINO: 150-13(E).

MEMBER TASKER: Oh.

CHAIRMAN SALADINO: Maybe if we read -- I have the big book, Village --

MR. CORWIN: Here it is, John. Here it is,
right here.

CHAIRMAN SALADINO: "Existing small lots. A lot owned individually and separately and separated in ownership from any adjoining tracts of land." We can agree that's what's going on. "Which has a total lot area or lot width less than prescribed in this chapter, may be used for a one-family residence, provided that such lot shall be developed in conformity with all applicable district regulations."

I can't -- I can't see it any other way than it's written here. A one-family house -- if I say house, I apologize, I mean residence. If a one-family house, one-family residence, according to this chapter, it's a permitted use. According to this, it's not a permitted use. If it's not a permitted use on any -- any lot or district, it requires a use variance.

MEMBER TASKER: Yeah, I think that's a logical chain of argument, John.

CHAIRMAN SALADINO: But the problem is I'd like to see this house built, but -- anybody else, anything else? You want to add something?

No?

MR. OLINKIEWICZ: We'll continue on with
whatever you decide.

CHAIRMAN SALADINO: All right. What do you think? We make a motion that -- I'm going to make a motion that we affirm the Code Enforcement Officer's application of 150-13(E) for 415 Kaplan Avenue, Greenport, Incorporated. So moved.

MR. CORWIN: Second.

MEMBER TASKER: Second. And if I may suggest an amendment, add some additional wording to require that only a single-family house, single-family residence is permitted because of the lot width.

CHAIRMAN SALADINO: Well --

MEMBER TASKER: And then we matched it to the statute.

CHAIRMAN SALADINO: Well, isn't that redundant? I mean, the Notice of Disapproval is written by the Code Enforcement Officer and he's basically saying that. So if we affirm that, we're agreeing, we're agreeing with the Code Enforcement Officer.

MEMBER TASKER: Can you read back the motion, please?

MS. BRAATEN: The motion?

MEMBER TASKER: Yes, John's motion that he
just stated.

CHAIRMAN SALADINO: I didn't even know she could do that.

(Laughter)

CHAIRMAN SALADINO: Do you want me to just make it again.

MS. BRAATEN: The original motion?

MEMBER TASKER: The one that Mr. Saladino just made, yes.

(Whereupon, the motion was read back.)

CHAIRMAN SALADINO: Well, let me ask the Attorney.

MEMBER TASKER: Okay.

CHAIRMAN SALADINO: Will that -- is that --

MR. CONNOLLY: That's all you're being asked to do.

CHAIRMAN SALADINO: All right. So did we vote?

MEMBER TASKER: No.

CHAIRMAN SALADINO: I made the motion, David second it. David, you want to vote?

MR. CORWIN: Are you calling the roll?

CHAIRMAN SALADINO: Sure.

MR. CORWIN: You guys have changed my mind.

I will vote aye.
CHAIRMAN SALADINO: Jack?
MEMBER REARDON: Aye.
CHAIRMAN SALADINO: Arthur.
MEMBER TASKER: Aye.
CHAIRMAN SALADINO: And I'll vote aye. You got to come back for a use variance.
MR. OLINKIEWICZ: No problem.
CHAIRMAN SALADINO: Okay. Item No. 7 is any other Zoning Board of Appeals business that might properly come -- oh, we did that, but I'm going to read it again, in case somebody in the audience has something to say. If not, I actually have something to say.

I read something, I'm not quite sure where, from someone somewhere, that on one of these applications that we have, that we adjourned, that the Zoning Board has drawn a line in the sand, is pretty much -- I want to dispute that. This -- first of all, the public hearing is not even closed. I'm positive, and I could speak for the members, I could speak for the member that's not here, that nobody has pre.decided this case. Nobody has drawn a line in the sand, nobody's -- as just exhibited here tonight, the Zoning Board members are free thinkers, they listen to the
discussion, they change their mind, make up their mind.

So for someone to say that the Zoning Board has pretty much drawn a line that -- about a certain application is patently false. We don't do that. Perhaps in a different time there was Zoning Board's that did that. This is not one of them. So I just -- I just want to say that.

I'm not going to read this out loud, I just thought I'd mention that. If that person's watching, that's my feeling about the statement that they made.

Anybody else have anything to say, anybody, something they want to --

MR. CORWIN: One other thing, Mr. Chairman.

CHAIRMAN SALADINO: Sure.

MEMBER CORWIN: At the work session of the Village Board, Attorney Prokop, Trustee Phillips and Clarke, I guess both, Trustee Clarke started the idea and Trustee Phillips agreed with him, that there should be some changes to the code, particularly in terms of 150-12(C), the use, adaptation or change of use of any building where it says you don't need parking. They brought up the idea that need this and changes need in the
And the question was how to proceed, and Mr. Prokop said, well, we should send a letter to the Planning Board and the Zoning Board to see what they think. So, obviously, they haven't sent a letter yet, but it's something to think about in terms of I assume that it's coming.

CHAIRMAN SALADINO: I agree with you, David. I think -- I think Zoning and Planning should be -- should be lobbying. Since we're the ones on the front lines here with those two portions of our code, and for the public, both of them basically kind of say the same thing, that any property that was improved prior to 1991 is exempt from parking. In 1991, that might have been appropriate, the Village was a different place. Now, in 2020, everybody in this room knows that the Village is in the summer, in the winter obviously not so much, but in the summer, the Village is basically strangled by parking.

I have some ideas of how that could improve. I think -- I think it's easily fixed. It's -- instead of the word "property", you substitute the word "business". This way -- or enhancement of business, or enlargement of
business. This way, when businesses change hands and they expand, and because they're protected -- obviously, any application that's in front of us now would be exempt from this, so I don't want -- I don't want any applicant that's -- that has an issue with parking in front of this Board now to think that this might be in response to that application, it's not.

So Planning has offered an opinion. I think the Village Board should -- I mean, I know there's a lot of things on the Village Board's plate, grants, and sewers, and power plants, and God knows what else, but it -- in January, it's not that big an issue, but in July, it becomes a big deal.

So, you know, that's what I'm kind of thinking. If we had a letter -- I'm not sure. Did the Village Board want a letter from us, or they were going to send us a letter?

MR. CORWIN: The way I took it, what Mr. Prokop said was they, really him, was going to send the letter.

CHAIRMAN SALADINO: All right.

MR. CORWIN: So --

CHAIRMAN SALADINO: Is that what you
remember?

ADMINISTRATOR PALLAS: Yeah.

CHAIRMAN SALADINO: So we shouldn't be talking about it until we get that letter.

(Laughter)

MR. CORWIN: Well, hey, tonight's a great time to talk about it.

CHAIRMAN SALADINO: I agree.

MEMBER CORWIN: We know it's out there, and we didn't have a big agenda, so.

CHAIRMAN SALADINO: I agree, David, I agree. It's something that, hopefully, the Village Board will come up with some language and perhaps hold a public hearing, and we would, as a Board, certainly could weigh in then.

Do you guys, Arthur and Jack, have any opinion about that?

MEMBER TASKER: I certainly think it's time for a change in that -- in the way the parking is regulated, and if it gets down to changing the Zoning Code to accomplish that in terms of how buildings are used or turned over, I think it's quite appropriate.

MR. CORWIN: I think the problem is people are coming in and they're abusing that privilege,
because they just keep expanding the buildings. They take up what was a yard or a pavement and they put tables and chairs on it, and I think that was never the intent of that. The original intent, as I understand it, was if somebody had, say, an antique store, that by the code, if it was from scratch, needed maybe four parking places, and they wanted to change it to a restaurant, which by code would need 30 parking places. And there was the problem, because, all of a sudden, a lot of places expanded, and they expanded where -- if that was not -- 150-12(C) wasn't in there, they would have had to get some kind of variance to do their expansion.

CHAIRMAN SALADINO: Well, I think -- I think we're partially to blame, we collectively, the statutory Boards. You know, we -- unfettered expansion, you know, only exacerbates the lack of parking. And as a statutory Board, sometimes that might come in front of us, sometimes it's more likely to go in front of Planning. So we contribute to that, too.

I had thought the ordinance --

MEMBER TASKER: I don't agree.

CHAIRMAN SALADINO: You don't believe that?
MEMBER TASKER: I don't agree.

CHAIRMAN SALADINO: Okay.

MEMBER TASKER: We deal with the ordinances we're dealt.

CHAIRMAN SALADINO: No, I understand that. I understand that. But, anyway, just to go forward a little bit, I thought in 1990, or 1990 -- the code was changed in 1990 and they made the building from '91. So I had thought that perhaps that was progressed, because, like I said, Greenport was a different place at that time. There was --

MR. CORWIN: There were a lot of -- excuse me, I shouldn't interrupt, but there were a lot of empty stores at the time. That's not so anymore.

CHAIRMAN SALADINO: I was just going to say that. You know, we had some stores that were -- Front Street, Main Street had a lot of empty stores. The Mayor at that time thought this would help fill those stores with renters and stuff. But now, in this day and age, it's -- there must be a sign someplace. I tell this to Mr. Pallas all the time. I think there's a sign in Babylon someplace that says, "Go to Greenport, You Don't Have to Provide Parking," you know, and
everybody, all the investment construction guys
read that sign and they come here.

MEMBER TASKER: Well, I think it's Babylon,
in fact, that has a moratorium on new restaurants
in it.

CHAIRMAN SALADINO: I think it's Patchogue.

MEMBER TASKER: No, Patchogue is
considering it. I think Babylon already has it.

CHAIRMAN SALADINO: So I'm not going to --
I'm not going to get into that discussion about
moratorium, that's Village Board, they'll decide
that. But that's kind of like my thoughts. When
we get the letter from the Village Board, we'll
talk about it a little more. Maybe the public
will have something to say about it. I don't know.

We're going to have a motion to adjourn?

Item No. 8 is the motion to adjourn. So moved.

MEMBER TASKER: Second.

CHAIRMAN SALADINO: All in favor?

MEMBER CORWIN: Aye.

MEMBER REARDON: Aye.

MEMBER TASKER: Aye.

CHAIRMAN SALADINO: And I'll vote aye.

Thank you, folks.

(Time Noted: 6:57 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  

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

IN WITNESS WHEREOF, I have hereunto set my  
hand this 30th day of January, 2020.  

Lucia Braaten
Lucia Braaten
Dear Zoning Board of Appeals Members,

Please accept my comments regarding the Greenporter Hotel's request to expand from 34 hotel units to 52 while maintaining the 27 parking spots and a loading zone.

First, the goal of allowing older buildings to pay for parking, instead of providing one per hotel unit and one per worker, was intended to preserve historic buildings and maintain the street wall for a more walkable village. The Village Board has not increased the fee in lieu of parking so it would be tempting to call a moratorium on all parking waivers until the fee has been brought up to the market value of a parking space.

However this is a special village business run with care and creativity, so even though this property does not meet the goals of the parking waiver legislation, I support many of the expansion features and consider it a beautiful design.

The code describes building height of 35' or 2 1/2 stories, whichever is less, in the Multifamily section of the code. This makes logical sense for all districts, unless there is an adjacent historic building that is higher in a commercial district, because our village is almost entirely pitched roof structures with a peak height approaching 35' but only a 1/2 floor of useable space upstairs in the attic floor. The hotel is adjacent to residential on its north and east side and should therefore be in context with the traditional building size of the neighborhood.

The above suggestions could be met by eliminating 3-10, 3-11, 3-12 on the north side and 3-13, 3-14, 3-15, 3-16 on the east side. This would allow 11 new units for a total of 45 units.

Other considerations:

There should be no roof fencing on top of the 3rd floor and solar panels should be set back 15'
from the roof edge since they are proposed to be pitched and visible.

The Basement should be labeled Cellar. The definition of a basement requires 4’ above grade. This may require a variance for its use which I would support.

There should not be a fence blocking the 4th Street parking egress for safety and to avoid congestion on Front Street.

The ZBA ruling should specify that it is contingent upon the Village receiving a fee for the 11 new hotel units and the one or two new workers that this would require.

Thank you for your consideration.

Sincerely,
Randy Wade, 6th Street
null
The page contains a table with text entries in various columns and rows. However, the text is not clearly legible due to the formatting and alignment issues. Here is a transcription of the visible content:

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