VILLAGE OF GREENPORT

ZONING BOARD OF APPEALS

REGULAR MEETING

April 16, 2014

5:00 p.m.

Meeting held at the Greenport Firehouse

236 Third Street, Greenport, New York 11944

APPEARANCES:

Douglas Moore – Chairman

David Corwin

Charles Benjamin

Ellen Neff

David Abatelli – Village Administrator
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(Whereupon, the meeting was called to order at 5:05 p.m.)

CHAIRMAN MOORE: I think we can begin. This will be the regular meeting of the Greenport Zoning Board of Appeals, and it's about five-after-five.

Just to let folks know, if you're not familiar with tonight's agenda, if anyone came for information, continuing discussions about the Sommer application, which I think is North Street, or Costello on Main and Broadway, those both have been withdrawn, so they won't be discussed. I don't know if anyone was here for those issues or not, in case you were.

Just as a little bit of housekeeping to start, I wanted to remind the Board Members that there is a training event May 14th, and I've been
trying to find out if we need to tell them in advance who might be coming. But if you could let me know in the next week or so if you would want to come, it's May 14th in Riverhead at 5:30 until 9:30.

MR. BENJAMIN: Yeah. I won't be here.

CHAIRMAN MOORE: Yeah. So if you could just catch up to me and let me know.

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MS. NEFF: I could come the 14th.

CHAIRMAN MOORE: Okay. And that will satisfy the training requirements for this calendar year, I believe. I don't know if you're caught up by doing any online, or you'd like to attend the meeting.

MR. CORWIN: Well, my question is what's going to be the agenda?

CHAIRMAN MOORE: I haven't seen it.

MR. CORWIN: Because the last couple of years, they've been -- I certainly haven't learned anything in the last couple of years I've gone.
CHAIRMAN MOORE: Okay. Well, I'll try and find out the agenda, then. I had looked at the -- I didn't look at the website, but I looked at the bulletin that was sent and it didn't indicate the agenda.

MS. NEFF: Do you know what time it is, like six?

CHAIRMAN MOORE: 5:30 to 9:30 on that.

MS. NEFF: 5:30, okay. Thank you.

CHAIRMAN MOORE: It's a Wednesday, I believe, and it doesn't conflict with our meeting, which would be the following week in May.

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So the first item on the agenda is a public hearing, and this is for a request from the Planning Board for an interpretation of Section 159-9 A & B, Permitted and Conditional Uses in the Retail Commercial District. The Planning Board is considering an application for establishment of a car service, taxi service, proposed to be located on a parcel designated as Retail Commercial.
And this is the property of the store, which is named -- the name is pronounced Layyah, I believe, and it was noticed in the Suffolk Times. Also, the adjoining properties were noticed, and I believe I have them here. It is the Congregation Israel on 519 Fourth Street; John Williams, 403 Front Street; West Dublin Reality, 400 Fourth Street; Greenporter Land, LLC, 202 Front Street; Simpson Management Trust, 329 Front Street, and Cadden, 520 Fourth Street. So those were the properties that were notified, and we do have the mail receipts here. It was also placarded, I believe. There was a sign on the property concerning the public hearing.

And I'd like to point out that this public hearing is a technical question concerning whether the activity that's proposed to the Planning Board is permitted by that section of the code applying to Commercial Retail, it's not about the merits of this particular application before the Planning Board. With that in mind, if

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anyone from the public would like to speak, we
could take comment.

MS. GREENBERG: Hello. My name is Adrianne
Greenberg. I'm the President of Congregation
Tifereth Israel right opposite Layyah.

Our synagogue is -- I have a letter in
which I will give the Board. "Our synagogue is
located at 519 Fourth Street and we are a close
neighbor to Layyah. Since its opening, we have
noted the following negative items:

Marked increase in rubbish in the
neighbor's property located to the south of
Layyah and in our park, which is across Fourth
Street from the business. This includes garbage,
wrappings, multiple cans, alcoholic and
nonalcoholic.

Preponderance of people hanging out at
night. It's been observed and reported that
illicit drugs have been sold, transferred. One
death has been reported on the property.

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It has been witnessed that at least one
person has been urinating in the property during the daylight hours, suggesting that the clientele just don't feel that they're being monitored.

Employees have not been helpful when complaints have been made.

The resale value of the property to the south has significantly declined.

The dumpster located to the south is often not closed and garbage is seen outside of it."

In this letter, we said no garbage receptacle is placed. I notice that there is a garbage receptacle placed now in front of the business, but we still have wrappers and tossed debris throughout the whole parking lot. There's one garbage disposal, and people tend go to their cars, unwrap and just toss.

"If the car service vehicles are to be parked to the south of the building, which I understand from Eileen Wingate this is what is supposed to be happening, where does the dumpster for garbage get placed? A worsening unhealthy scenario will unfold with increased vermin.

If the car service is to be parked to the south of the building, doesn't that extend the
business line and place it too close to the neighbor's line? Ten feet? I don't even think that's 10 feet.

Parked cars only lead to damage from vandals. Given the amount of gasoline and possibility of leaking oil and petroleum products from such vehicles, one might anticipate a possible fire hazard. And, certainly, the Greenport Fire Department should weigh in on this issue, particularly since they are the ones who'll be called such — in such a disaster.

Are there New York State ordinances with reference to such car depots that need to be investigated? Are there Southold ordinances?

If there is any approval of — if there is an approval of this request, I think it should be time-limited, and I think there should be a possibility that it be monitored to note the physical condition surrounding the property.

Layyah was accepted, it was pushed through somehow, but the place is uncared for and it's very obvious. You just drive up and you see the
place is dirty and it's embarrassing, and it's not a good reflection to the Village that we really love.

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Since this opening, we have not noticed any positive improvements to the area and to our neighborhood.

Respectfully submitted, Adrianne Greenberg, President of Congregation Tifereth Israel.

Thank you.

CHAIRMAN MOORE: Thank you. Would any other members of the public like to speak?

MR. WILLIAMS: Yup. My name is John B. Williams, Jr. I've got a procedural question.

MR. CORWIN: Could you say that slower?

MR. WILLIAMS: John B. Williams, Jr.

MR. CORWIN: Thank you.

MR. WILLIAMS: Okay. Sorry. I have kind of a procedural question to ask. I'm kind of unfamiliar with this process. Does Layyah currently have a provisional or conditional permission to operate a car service at this time?
CHAIRMAN MOORE: It's my understanding that they have a proposal before the Planning Board.

MR. WILLIAMS: Okay.

CHAIRMAN MOORE: And the reason for the meeting tonight is for us to provide input to the Planning Board as to whether the code will support this type of activity.

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MR. WILLIAMS: Okay.

CHAIRMAN MOORE: So they have, I think, abstained from going forward at this point without an interpretation of the code from us.

MR. WILLIAMS: Okay.

CHAIRMAN MOORE: So, again, as I would like to mention, we're not judging the merits of the service, simply whether it -- whether it could be allowed or not.

MR. WILLIAMS: I understand, it's not about the merits, it's about procedure and legality --

CHAIRMAN MOORE: Yes.

MR. WILLIAMS: -- as I see it. And maybe you can give me an explanation. Maybe the
proprietor can give me an explanation.

For at least a month there has been a
taxicab parked there with a taxi sign on it and a
Layyah Taxi Service sign on both sides. I've
observed it many, many times. I've seen the same
taxi dropping off passengers at the Shelter
Island Ferry. And it's my understanding there's
a flier for the taxi service or the car service
out at the ferry in Orient Point.

And I guess what I'm wondering is if Layyah
does not, in fact, have any legal permission to

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do this, or any provisional permission to do
this, how does this come to happen, and why? Is
he -- in other words, one could conclude that
somebody can just come in, open a business, and
essentially laugh at our rules, and our
ordinances, and our ways of doing things, while
those of us who play by the rules sit by
disappointed at best.

So I have nothing against a car service in
Greenport. I know the proprietor here is a nice
guy, but, you know, I have yet to -- how did this happen? It's my understanding that when they opened up the first time, they did without a C of O and don't even know if they have one now. Does the Zoning Board know if Layyah does, in fact, have a C of O?

CHAIRMAN MOORE: I wouldn't know.

MR. WILLIAMS: Okay. Anyway, it's a travesty if, you know, somebody could just come in and do this. And, you know, how does that attitude then translate into how one runs a business, respects authority, that kind of thing? So I would like very much to know what the legal situation is here. Do they have permission to run -- already a run a business that they're theoretically asking permission to run? And if someone can give me an answer at some point, I'd love to know. Thank you very much.

CHAIRMAN MOORE: Thank you. Any other members of the public who would like to speak? Yes.
MS. CADDEN: Hi. My name this is Jeanne Cadden. I am the neighbor just to the south of Layyah. I don't live on the property. We bought it as an investment, and we built the house just south of that house. Everything that we've done there we tried to do in keeping with the Village and with respect for the property. In the last eight months, we've renovated the house and we've done extensive work inside and outside. And every real estate person I've spoke to has said, "You're going to have a very tough sell there," because of the convenience store, and particularly because of the way that it's kept. So it's frustrating, because it really is a big investment for us, and we don't know what to do about it.

I have tried to go over to the store a couple of times, but I haven't seen the owner there or the tenant there. And I would like to

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have an opportunity to talk to him, because I know I did talk to him. Was it you? Yeah.
So -- and he was always accommodating, but I don't know why he doesn't take care of his property.

So for the last, like I said, eight months, we've been working on the house, and I come out a couple of times a week, and the first thing I do is get out of my truck and walk along my property and pick up all the garbage, and then I walk around to his property and pick up all the garbage on that property. And, you know, I have a picture right here just from two days ago, and I had picked up the garbage four days ago, and then two days ago I went and I picked it up again, had a piece of cardboard that had flown over, put all the garbage on top of that.

So that and many -- you know, many other things, the care of the plants, the planters. There's no curbing there. I don't know why there was ever -- no required curbing there. There is in any other -- every other municipality on commercial property like that, but there's no curbing anywhere, so there's no protection for us in terms of runoff, snow pileup. You know, the
plants that are put in are completely run over. And it amazes me.

This -- I don't live here. This is your Village. You know, this is the gateway to your Village, and as you drive in, this is what you see, seven or eight holly plants that are completely run over, the black plastic pulled up from the garden all flying in the wind, the puddles from the divots in the macadam and the soil where there's garbage floating in it, and every day I go there and I pick it up. So I just don't understand why that's allowed to happen.

I hope that you will consider at least inspecting the property periodically, and inspecting the noise factor from the fans behind. I don't know if they're appropriate or not. They seem loud to me, but they may not be. I mean, I did buy next to commercial property, but this is a complete change of use of what was there. And it's very frustrating, because there doesn't seem to be any pride in the care of the property.

So, if you can't maintain what's there now, why would anybody be entertaining putting an
additional -- an additional business there? And
I don't begrudge anyone for running a taxi or,

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you know, making a living, there's no problem
there, but just conform to what's supposed to be
there. Put your ingress and egress where you
have -- supposed to have an exit only. Make sure
people only use it as an exit, not an entrance
and exit, not flying in and out.

That driveway is right next door to my
driveway. There are children that are walking
past there all the time because there's no
sidewalk. It's dangerous. The bus comes around.
I have a picture of it from today; almost hit me
today coming around that curve.

So these things should be considered.
You're here to protect the residents, not just
one, you know, business, but all of the
residents, and every one of us. You know, the
Temple, John and Jane, you know, that affects us.
What you do on your property affects us
tremendously. So, if you're going to entertain
putting another business in there, please consider what's happening now on the property. And just as a side note, I'm a landscape designer. I would be happy to propose anything for you to make — to beautify it, and I would do it for free just to have it look attractive, so I can sell my home and, you know, give someone a nice place to live. So that's really all I have to say. If you guys are interested in seeing any of these pictures of the garbage that I've collected, you're — you know, it's all here. And I would like to continue, if it's okay with the tenant, the owner, or whoever, I'd like to continue to pick up the garbage. The only problem is I'm not going to be here that much longer, because I'm -- this is my busy season, so I won't be out here as often. But I'd like to continue to pick up the garbage and, you know, just have it as attractive as possible. I'd also like to plant along the fence, some small planting along the fence that's
on my border just to beautify it, but that's
another thing. It's a little hard when the snow
is piled all up against the fence and the
snowplow plows into the fence, so now every
single fence all the way down is busted. So, you
know, that's a little frustrating, too.

MS. GREENBERG: That's on the Layyah side
pushing into your property.

MS. CADDEN: Pushing into my property,
which, by the way, I have 65 evergreens planted

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there to mitigate all of the debris that used to
come under the fence. Now I raised the grade up
by 120 yards of soil, which is a lot of soil, and
planted 35 along that border just to keep the
garbage from coming in, because there was never
any curb put in to protect our property, so --
and I don't -- you know, I -- I'm not trying to
create more problems, I'm just trying to state
facts and the unfairness of what's going on.
Anyway, thank you.

CHAIRMAN MOORE: Any other members of the
12 public wish to speak?
13     MR. GOLDMAN: Yeah, I would like to say
14 something. My name is Philip Goldman, and I am a
15 member of Congregation Tifereth Israel. I
16 would just like to comment that the traffic
17 coming off that property, the traffic from the
18 synagogue and the Jittney bus coming down that
19 street, sometimes it gets a bit hairy. The
20 school children from Greenport School walk from
21 where they go to eat lunch right through the same
22 space. It gets dangerous sometimes.
23     CHAIRMAN MOORE: Thank you. Any other
24 members of the public wish to speak?
25     (No response.)

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1    CHAIRMAN MOORE: If not, would the Board
2 offer a motion?
3     MR. CORWIN: Just before we close, I just
4 want to make clear that all these comments are
5 germane to the question of locating a taxi
6 service there, but what we're here for tonight is
7 to interpret the code. So I'm not sure that what
we've heard necessarily applies; am I correct in
that, Mr. Chairman?

CHAIRMAN MOORE: That's correct. And I
would recommend that you retain your information,
and there will be a time before the Planning
Board, presumably, that this issue will come up,
and that's probably the more appropriate place to
make those comments, and that's regarding the
project itself.

I'm not sure in all cases the Planning
Board notices conforming uses, but perhaps a
request could be made that the notice is provided
to the community regarding the project.

MR. ABATELLI: I think you also could just,
or we could, you know, just have the Planning
Board look at these minutes.

CHAIRMAN MOORE: Sure.

MR. ABATELLI: I mean, aside from --

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CHAIRMAN MOORE: And they'll be available,
because -- and you can get them --

MR. ABATELLI: And then they could go to
the meeting, but the Planning Board meetings aren't noticed, other than just that they're -- you don't get a notice to your house. They're noticed in the paper and the usual places.

MS. GREENBERG: I don't understand. Are you saying -- I need that to be repeated. I'm sorry.

CHAIRMAN MOORE: Perhaps I could explain the mechanics of what this is.

MS. GREENBERG: Yes.

CHAIRMAN MOORE: This would normally be an issue directly before the Planning Board.

MS. GREENBERG: Okay.

CHAIRMAN MOORE: And I believe, if our interpretation follows, you know, this is presuming it is an activity that's part of the allowances in the district that applies, which is a Retail Commercial, the Planning Board would deal with the matter and approve a site plan and go through the process, or not approve a site plan.

They have asked us for an interpretation,

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because Mr. Prokop, during their meeting
apparently advised them that this activity may
not be supported by the code for this district,
and so they've referred it to us.

MS. GREENBERG: I see.

CHAIRMAN MOORE: If we should decide that
this does not meet the code requirements, then a
use variance would have to be applied for, again,
back to the Zoning Board of appeals before the
Planning Board could move forward. If we
determine that this is permissible under the
code, it just is returned to the Planning Board
for their consideration and the process
continues.

So there will be, you know, ample
opportunities for the public to speak regarding
the actual merits of the application and issues
at the site that this activity could presumably
complicate it.

MS. GREENBERG: Would we — how would we
know? Is there a way for us to know when such a
meeting would be for us to appear?

CHAIRMAN MOORE: The Planning Board's
agenda is usually published within a day or two
25 before the meeting and that's on the Greenport

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1 website, the Village website. So I would keep a
2 keen eye out. And then ask -- you know,
3 Greenport's a small town. Ask around when the
4 meeting is. And the Chair is Peter Jauquet.
5 
6 MR. ABATELLI: Right. But the calendar is --
7 MS. NEFF: When are the regular scheduled
8 meetings?
9 
10 MR. ABATELLI: The regular meetings are the
11 last Thursday and the first Thursday of the
12 month. But to note, the last Thursday of the
13 month and the first. They have a work session,
14 then a regular meeting. But if you want to know
15 for sure that this is on the agenda, you'd have
16 to either look at the website just before the
17 meeting, or you could just call or come to the
18 Village and ask somebody. It probably will be.
19 
20 MS. NEFF: In our meetings, again, this
21 would only come to us. Depending on what happens
22 today, they would have to apply, the owner would
23 apply for a use variance; is that correct?
MS. GREENBERG: Okay.

CHAIRMAN MOORE: Not simple, but a regular process that occurs.

MS. GREENBERG: But, in the meantime, we should not be seeing any taxis picking up and delivering people and/or parking in Layyah's?

CHAIRMAN MOORE: I'm not certain of the details of what can and can't be done, but you can certainly inquire with the Building Department and Code Enforcement regarding that. That would be the appropriate place to ask if you think something inappropriate is going on.

MS. GREENBERG: Okay. Thank you.

CHAIRMAN MOORE: And any issues on a property that has maintenance issues, you know,
that's the place to go to. That's certainly what I would do if I had trouble with a neighbor.

M.S. GREENBERG: And the Chair of that?

CHAIRMAN MOORE: That person is Eileen Wingate in the Village office.

M.S. GREENBERG: Okay. I believe that -- I believe Eileen Wingate has been spoken to already, apprised of the condition, no?

CHAIRMAN MOORE: Okay. I think we'll have

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to move forward now.

M.S. CADDEN: I've talked to Eileen on occasion about -- you know, just about being a neighbor to the property. But may I ask a question? May I?

CHAIRMAN MOORE: Yeah, and if you can come up. I assume it's procedural, something about what has happened.

M.S. CADDEN: Yeah. Well, that's what I'm not sure of. I don't know if this is considered procedural.

The car itself, the taxi, I don't know if
there's one of them, or if there's a fleet, or
what. I've seen, you know, a taxi in there often
lately. Where does it -- is it procedure? Where
does -- where is it parked? Where is it supposed
to park? I mean, is it supposed to have its own
-- because there's only five parking spots there,
I believe, and then there is one handicapped
spot.

You know, there's a code for the size of
the building and how many parking spots are
supposed to be there. They're under the amount
of parking spots as it is. So the next thing is,
and my question is, where are they going to park?

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I don't know if you addressed this, Adrianne,
because I came late, but --

CHAIRMAN MOORE: Well, you know, this is
getting off topic, because --


CHAIRMAN MOORE: I would just say that is
something that would come up with the Planning
Board.
9       MS. CADDEN: Planning Board, okay. Sorry.
10       CHAIRMAN MOORE: Very much so.
11       MS. GREENBERG: We'll discuss it.
12       MS. CADDEN: Okay.
13       CHAIRMAN MOORE: And I'm sorry. I'm not trying to put you off, but it's just not part of our job to do that.
14       I think we've had the full public input, those who wish to speak. At this point, then, I'd entertain a motion to close the public hearing.
15       MR. CORWIN: So moved.
16       MR. BENJAMIN: The owner doesn't want to speak?
17       CHAIRMAN MOORE: I'm not sure. Did to want say something --
18       MR. KHAN: Yes.

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1       CHAIRMAN MOORE: -- regarding our technical interpretation?
2       MR. KHAN: Yes.
3       CHAIRMAN MOORE: I hope you can -- I know
people were speaking issues besides the code.

MR. KHAN: No, I'm not going to go out of the code.

CHAIRMAN MOORE: If you can keep it brief.

MR. KHAN: My name is Imran Qasim Khan. And before I started that taxi business, my taxi business is still running. I'm taking the customers and on and off we're dropping, taking customers.

Before I started, I went to the Village Office, I talked to Mr. Dave and Miss Eileen. I told them I'm opening up a taxi business, is there any law about the taxi business, opening a taxi business? There is no -- they don't have anything in the Village. They don't have anything in the Village.

I went to the Town of Southold, they gave me the same answer, they don't have any, because there's too many taxis working here. One of the taxis, they have the office in Southampton and they are taking care of the customers in the

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And when I started and I talked to Eileen, she said there is no code, you don't need anything. And I told her, in my office, I'm going to make office. Basically everything is going to be on the phone, which I am using right now, everything on the phone. We don't need any office for the taxi, basically. And that's why I questioned. I asked her if I can put a small sign board on the building. That's why I gave the application to the Village, and I want to just make my office as a taxi office, in case if somebody need a taxi, they can come into the store. Otherwise, I don't need an office. And there's too many taxi services, they don't have office at all, they are doing it on the phone.

And there's too many other questions, but they were — my only answer for it, how are we going to take teach the customer they don't have to throw anything in the parking lot? I have the dumpster there. We clean the garbage every day. If somebody is just eating something and they throw the wrapper outside, we have to teach them?

CHAIRMAN MOORE: Okay. Well, thank you. I believe you do have an application for a site
plan review with the Planning Board; is that correct? They wouldn't be hearing --

MR. KAHN: No, there was nothing, only about I was asking them to put the sign board only. I came only for the sign board, not for the taxi business.

CHAIRMAN MOORE: Okay. Well, I'm not familiar with exactly the details between the Building Department and the Planning Board.

MR. KAHN: I talked to Mr. Dave and I talked to Ms. Eileen, and she said they're not supposed to put you into the Zoning Board meeting, it's supposed to be -- everything's supposed to be done in one meeting, which was the first meeting. And she said, "I don't know if they are not educated enough, the Planning Board, why they put you over into the second session."

She said, "I was not there that time, I don't know."

CHAIRMAN MOORE: Well, it's part of their right to seek an opinion of the code if they wish
to ask, and that's what they did. So we're responding to the Planning Board regarding that.
Okay?

MR. KAHN: Thank you.

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CHAIRMAN MOORE: Yes. So, with that in mind, I believe Mr. Corwin has made a motion to close the public hearing. May I have a second, please?

MS. NEFF: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Any opposed?

(No response.)

CHAIRMAN MOORE: None. So it carries. And so the public hearing is closed on that matter.

We're going to move into our regular agenda.

MS. GREENBERG: Thank you.
CHAIRMAN MOORE: Sure, thanks.

MR. WILLIAMS: Thank you.

CHAIRMAN MOORE: I think we can keep the regular order. In deference to Mr. LaMaina from Lucharitos, we were taking this item first on the agenda and then would deal with the interpretation.

Mr. LaMaina is not going to be present tonight, but it doesn't prevent us from proceeding with our discussions regarding the request he has for a sign variance.

Just to recap, we did ask for some input from the Historic Preservation Commission, and Mr. Uellendahl has responded by email, which we received the 8th of April. And I'll just read it, it's not too long.

"In response to your request to offer HPC assistance regarding the sign application for the Lucharitos Restaurant, located at 119 Main Street, I called a special meeting on March 10, 2014. All HPC members were in attendance.
The agenda stated that the sign that was to be approved had already been installed above the entry door of the restaurant without having applied for a permit. The applicant, Mr. LaMaina, was present. He explained to us the details of the sign, the design regarding its illumination with additional flashing light bulbs. We had a lively discussion about the actual design, size and colors, and the affect the sign would have on the community by having it lit up according to the applicant's specifications.

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The design of the sign seemed to be well liked in its appearance while unlit. The flashing part of the design was rejected unanimously. However, a discussion ensued whether we could permit to have the individual light bulbs lit, not flashing, creating a dim glowing effect.

I decided to offer two motions. Motion #1, to approve the sign as fabricated installed, but
under the condition that the sign would remain
dark. If desired, the sign could only be lit
from the outside by way of a sconce or similar
light source. If approved, the applicant would
not have to remove the sign. The motion carried
unanimously 5-0-0.

Motion #2, to approve the sign with very
limited lighting, meaning that the individual
light bulbs, as part of the sign, could only be
turned on when drastically dimmed, and under no
circumstances would be flashing. The degree of
the dimmed lighting appearance would be
determined during the site visit after dark. The
motion carried 4-0-1, that's with one no vote,
because the light is recessed within the doorway
and not visible when approaching the restaurant

via sidewalk.

Chairman Frank Uellendahl opposed the
motion based on the Village Code Section
150-15G(2), which prohibits illuminated and
flashing signs. He did not want to set another

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precedent for more lit signs in the Historic District.

The applicant announced that he might remove the sign from the outside and install it inside the restaurant.

I hope this helps you in your decision-making process. Best regards, Frank Uellendahl."

So thank you, Frank, for writing that.

MR. UELLENDAHL: You're welcome.

CHAIRMAN MOORE: Perhaps I could ask you, since you're available, the discussion about removing the sign from the outside to the inside, was any location mentioned within the restaurant?

MR. UELLENDAHL: Frank Uellendahl, 123 Central Avenue, and also Chair of the Historic Preservation Commission.

Well, this is something that going forward we have to discuss amongst ourselves, because I would hate to see that exact sign be put right in

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the storefront behind the glass. And we have
other examples on Front Street across the street
from the post office, next to Noah's, where we
have those signs right behind the glass, and I
would not like to see that in the Historic
District. But then again, a lot of people don't
know where the Historic District starts and where
it ends. Unfortunately, it's only a part of Main
Street, that portion of Main Street that belongs
to the Historic District.

We did not discuss the exact location of
the sign. I would prefer to, and this was sort
of my understanding talking to Mr. LaMaina, that
he would put the sign within the bar area on the
inside and not right behind the storefront glass.

CHAIRMAN MOORE: Okay. Thank you. So, to
just continue that discussion, I had in mind to
ask Mr. LaMaina that same basic question. And in
the Village Code, under 150-15(B), which is
actually the definition of the sign in the Sign
Regulation Section, it refers to public display
-- publicly displayed out of doors or located
indoors, but directly -- directed out of doors,
and particularly illuminated, which means a sign
is still a sign if it's in the window, and that
applies.
So that if we were inclined not to approve
the sign and Mr. LaMaina wanted to put it inside,
the window location is not permissible by code,
so that would be restricted.

And since he's not here to offer what he
really intends to do with the sign, we have to
assume he still wishes it to be outside, and our
discussion should follow along those lines. So I
would like to hear from the Board.

We did have public testimony. Mr. Claudio
last -- two months ago indicated that he
supported the sign as lit, because it was not
terribly obtrusive, but he did not support the
flashing effect, and I think some of the Board
Members made comments in a similar fashion.

And the reference was made to the Las Vegas
effect, which I think everybody then gets an
image of what we're trying to avoid in the
Village, and the code does not support flashing
signs. So, in this case, we would be making an
exception, providing that the conditions of the
sign were agreeable to the Zoning Board.

MR. BENJAMIN: Historic Board.

CHAIRMAN MOORE: And to the Historic Board as well. It was still come, I believe, before

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the Historic Board for your official review.

MR. UELLENDahl: Yes, we were going to -- I mean, we did approve the sign lit in my second -- in our second motion, but at a very dimmed sort of, you know, illumination, and constant light, not flashing, so -- because the lights are there, and we like the sign, we like the colors, we like the design, we approved that in our first motion. But in the second motion, we wanted to make sure that the lights would not be bright. And we were going to look at this, if he decides to go ahead with this.

CHAIRMAN MOORE: You would have to check to see if your response to the ZBA also can register as your actual review by the Historic Preservation Commission.

MR. UELLENDahl: Yes, okay.
CHAIRMAN MOORE: So that you may have to check with Mr. Prokop about whether that constituted an official --

MR. UELLENDALD: We will do that.

CHAIRMAN MOORE: -- approval of that.

MR. UELLANDAHL: Okay. Thank you.

CHAIRMAN MOORE: My feeling is that I've seen the sign. Mr. LaMaina has -- since last

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month's meeting was cancelled, has reilluminated the sign. We had asked him to not light the sign until a decision was made. And I was able to see this time that the sign actually is internally illuminated, and fairly softly, but it is lit on its own regard from within, plus the light bulbs as decorations.

And I talked to him, I reminded him by phone call the night that we were having the meeting and he indicated he'd be unable to come. He actually indicated he did not know that at our previously meeting, that he only knew about the outside light bulbs. But my impression of the
sign is in the absence of the flashing lights,
and especially if the individual bulbs can be
toned down to be just low level illumination,
that it was really quite comfortable to me as far
as its visibility and --

MR. UELLENDahl: I would like to see that,
and I agree with that, yes.

CHAIRMAN MOORE: And not more illuminated
than could be accomplished from external
lighting. So to me it seemed like a decent
compromise if we could work out that kind of a
detail

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MR. UELLENDahl: Right. And we decided,
and, I mean, I refrained from voting on this
vote, or I was against it because of the code,
but I -- we looked at the situation. The sign is
really not visible as you walk down the sidewalk,
because it's recessed within the doorway. And
that's why we said there is no harm in having it
dimly lit.

CHAIRMAN MOORE: And Mr. LaMaina could,
with appropriate applications, hang a bracket, an overhead sign --

MR. UELLENDahl: Right

CHAIRMAN MOORE: -- which could be externally illuminated and actually be quite bright.

MR. UELLENDahl: Right, absolutely.

CHAIRMAN MOORE: So that I thought, again, the position of the sign was not terribly obtrusive.

MR. UELLENDahl: Right.

CHAIRMAN MOORE: Any other comments from the Board Members on the sign?

MR. CORWIN: I'll make two comments. One is that if you look in the Coronet Restaurant, they have what Frank was just talking about, they

have a sign in the window that says "open" and that flashes, and it's a very modest one. And during the week, there's not a lot of people in the Coronet Restaurant. It's really for the vacationers, and the second homeowners patronize
it. But I don't know where the Coronet's little sign begins, and if Mr. LaMaina was to put his sign in the window, where it ends. But that's always a problem. Let's not wrestle with that now.

As far as Mr. LaMaina's sign, when I looked at it yesterday, I didn't even notice that it was illuminated itself, but I did notice that it had -- the lights were shifted from the way he originally had it, where they just ran around in a circle, and they're shifted now to light the top lights, then the bottom lights, then the top lights. And there's 40 light bulbs in that sign.

MS. NEFF: Wow.

MR. CORWIN: And I don't know what wattage they are, but my thinking is I have no objection to the sign, and I have no objection to him lighting the sign, the light bulbs in the sign. But I do have an objection to the flashing of the sign, which I think everybody's kind of coming to that conclusion. So that would probably be the way I would want to go, that, provisionally, he
can turn on all the lights at once, but he can't have a flashing sign.

CHAIRMAN MOORE: And I think another comment that you brought up about the signs in the windows is that the various signs indicating that the business is open, or Budweiser, or some other product being advertised is kind of uncharted territory as far as signs. I think the main focus has been on the store sign itself, the sign identifying the business.

It would probably be quite a dark village if none of these signs were illuminated. And, of course, as Mr. Corwin mentions, it would be hard to tell if the store might be open or not.

But, anyway, we're focusing on this particular sign variance request. And the rest of the Board Members, any additional comments, contradictions, feelings?

MR. BENJAMIN: Yeah. We, you know, had several signs come up before us, and for different reasons we chose to go different ways. The one for the movie theater, it was like an iconic sign, something of the past. It was like more like art work or something. And we also
rejected requests because somebody wanted to put a sign, a lighted sign in Trader Bill's, and that was for a different reason, and each one is a case-by-case. And when a person comes up and asks for a sign, especially after the fact, for the reason of attracting customers, well, I pretty much know the area and the people that go to the restaurants don't go because of the sign, they usually go because somebody told them, or this is the latest spot to hang out.

So the reasons that are there for having the sign, you know, to me, I don't know if they make a lot of sense. But to give somebody permission to, you know, do something against the code, I would like to have a good reason for that, you know. And so I see most of you are accepting that reason. I'm not so sure about it. But, definitely, when you have a sign like that, it seems like that sign can be controlled, and it can be flashing, or, you know, have all different kinds of variations on the lights and not plain. So I just think that if we're going to do it, it
has to be the least.

Oh, yes. And the last thing is that the lady on the corner that was around the bend, and

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nobody could see her, even, you know -- now that was a good reason to have a sign.

CHAIRMAN MOORE: You're referring to Scrimshaw.

MR. UELLENDAL: Scrimshaw.

MR. BENJAMIN: Scrimshaw, yeah.

CHAIRMAN MOORE: Yes.

MR. BENJAMIN: So she -- you know, she was working hard to make a living and, you know, she had to get noticed, and that seems a little more reasonable.

I don't know if that sign is going to bring anymore business or not there. You know, I think good food and good service and stuff will bring more people than a sign. So that's the old-fashioned way.

MR. CORWIN: I would make a comment.

MR. BENJAMIN: Yes.
MR. CORWIN: When you drive by or even walk by, but more drive by a place like LaMaina's, it's kind of dark inside. I guess he wants it that way. You can't tell that store is open unless he's got that sign lit. That would be my observation. And the same thing with the Coronet, because there's no people in the Coronet. You wonder, is that even open?

MR. BENJAMIN: Right.

MR. CORWIN: But when he's got that sign in the window that says "open," well, then you can make the determination, yeah, he's open. So I think that's a legitimate reason to have a sign that is lighted, because then somebody going by can say it's open.

And I think, when that original code was written, no self-illuminated signs --

MR. BENJAMIN: Right.

MR. CORWIN: -- it was aimed at neon signs.

MR. BENJAMIN: Neon.

MR. CORWIN: Because they were very big and
they were kind of a new thing then.

MR. BENJAMIN: Right.

MR. CORWIN: And I think that was written to get a handle on them. And, personally, I have no objection to neon signs that are done tastefully like Scrimshaw's was. And then I would have to extrapolate a little and say I don't have an objection to LaMaina's sign if it's tasteful. It's not tasteful when it's flashing.

CHAIRMAN MOORE: I think one of the things -- yes, go ahead, please.

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MS. NEFF: I think the thing that -- the general agreement is, is not flashing is kind of easier to go with than any other set of words or paragraphs and that there's agreement about that. I also think the code, as it exists and it's implemented for the most part, that small is our friend. And that's incredibly important, that they're not huge signs. And we -- that's in there, thank God. I think that with that, you know, that we can move on with this one, and
that I feel kind of that it hangs together, the interpretation of a sign that works.

And I think there are many times when people are walking around this Village, this is not one of them, this particular kind of day in April, when a lot of people have not been here other times, or live here. And that for that purpose, signs are important, especially summer evenings. People walk all over, they see things they have a never seen before, and the lit sign is very helpful. So we want to help the business owners and I think this is a good compromise.

CHAIRMAN MOORE: I think another point to be made is that technology is changing. At our last meeting, a point was made, I believe, about Crabby Jerry's having either an LED or some kind of a light rope that decorates the sign. And while it's not a lighted sign, it is additional illumination around the border of the sign.

We recently approved the hospital's replacement signs, which is a totally different

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type of sign, an internally lighted, but very muted. That actually was my opinion, a big improvement over the box signs that are being removed.

So I think we have to recognize that there are some changes in the way business lighting is being done, and perhaps it would be a good recommendation in our process to suggest that the Village Board and the BID have some conversations about self-regulation and limits to what should be done as far as lighting. I mean, everybody wants to do their own thing, but there has to be some unity. Or if everybody comes forward with the latest lighted sign request, sooner or later, you know, the patience for variances will run out and then it will be back to the code as specified.

So I think we're moving in the right direction, but we'll have to do our test and see

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how this particular application comes out.

Would the Board support moving ahead with
the questions and the process and making a
decision?

MS. NEFF: Yes.


So the first activity is to make a motion, which I'll do, to declare the Zoning Board of
Appeals Lead Agency, and by SEQRA regard this as
a Type II Action. So moved. May I have a
second, please?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: And aye.

So unanimous, so that carries.

And then we have the questions. The first --

MR. CORWIN: Now I'm not sure. Do we need
to know what the gist of the motion is going to
be before we answer the questions?

CHAIRMAN MOORE: Okay. I think that would
be the thing. We could do a similar process that
the Historic Board did, which we could float a
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motion to approve the sign as currently lit. But
I think we've moved beyond that point, and that
we would specify that the sign could be
illuminated according to its design internally
and be decorated by the border lights. But their
brightness would have to be determined at some
point down the road, and that under no
circumstances could any flashing lights or
animated lights be part of the sign illumination.
That would be the basic motion, I think, that we
would make.

MR. CORWIN: So maybe I could sum it up --
CHAIRMAN MOORE: Sure.

MR. CORWIN: -- as a form -- in the form of
a motion --

CHAIRMAN MOORE: Okay.

MR. CORWIN: -- and say:

Whereas, Mark LaMaina made an application
for a self-illuminated sign.

And whereas, the Historic Preservation
Board has made a recommendation that no flashing
sign should be allowed.

And whereas, the Zoning Board of Appeals
has considered the sign and come to the
conclusion that the self-illuminated sign may be
kept in place, but no flashing lights are
allowed. The border lights may be used
 provisionally, subject to the Zoning Board of
Appeals and the Historic Preservation Commission
review of the illumination level once the sign is
set up to have steady lights around the border
and the sign itself illuminated.

Does that cover it?

CHAIRMAN MOORE: I think that's good. And
we'll have to hold that thought, and you'll just
make reference to that motion when we get there,
because we first have to go through the test
questions.

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

MR. CORWIN: No.

MS. NEFF: No.
MR. BENJAMIN: No.

CHAIRMAN MOORE: And no. So that is good.

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than the area variance? And I'll just ask down the line. Mr. Benjamin?

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MR. BENJAMIN: Yes.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.

CHAIRMAN MOORE: And I would say yes. Whether the requested area variance is substantial?

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.
CHAIRMAN MOORE: And I would say no.

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

Mr. Benjamin?

MR. BENJAMIN: No.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: No.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: No.

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CHAIRMAN MOORE: And I would say no.

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

Mr. Benjamin?

MR. BENJAMIN: Yes.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.
CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: Yes.

CHAIRMAN MOORE: And I'll also answer yes. And then overall, considering all of the questions, and taking into account the motion that Mr. Corwin spelled out, that we would make a motion to approve the requested variance based on those stated conditions and --

MR. BENJAMIN: What about the condition of -- does it go off when he closes down for the night? It doesn't stay on all night, right?

CHAIRMAN MOORE: We didn't talk about hours of operation. Is that an issue for the Board to consider?

MR. CORWIN: No, not to me.

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MR. BENJAMIN: And the other thing is that if he sells the business, then somebody else has to start all over again.

CHAIRMAN MOORE: Yes. I think we would add that this would apply only to the current sign --

MS. NEFF: The owner --
CHAIRMAN MOORE: -- identifying that business, because, clearly, if a new sign were installed, it would have to have an additional variance if it were also out of code.

So, with that motion having been made, I would then ask for the votes on whether we shall approve the requested variance. Mr. Benjamin?

MR. CORWIN: A second.

CHAIRMAN MOORE: Oh, sorry. One other thought?

MR. CORWIN: No. We need a second on the motion.

CHAIRMAN MOORE: Oh, a second on the motion. Okay.

MS. NEFF: Second.

CHAIRMAN MOORE: A second from Ms. Neff.

And then all in favor? Mr. Benjamin?

MR. BENJAMIN: Aye.

MS. NEFF: "All in favor" is aye, all of us, isn't it?

CHAIRMAN MOORE: Well, I'm going to go with
a roll call on this, just so we have the votes
down.

MS. NEFF: All right. Okay.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN MOORE: And Ms. Neff?

MS. NEFF: Yes.

CHAIRMAN MOORE: And I'll also vote yes.

So that motion carries and the variance is
approved according to the stipulations that were
outlined by Mr. Corwin.

So we can move now to the next item, and
this is discussion about the interpretation of
the code. And the issue that comes up is that
the Planning Board, through apparently Mr.
Prokop's advice, were not convinced that this
activity would be permitted in this district,
which is a Retail Commercial. And one of the
complications is -- and if you look at the zoning
map with the districts, there is a General
Commercial District, which basically follows the
railroad tracks down to the waterfront, and it
includes the railroad depot, the staging area for

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the ferry, a number of business properties, Mr. Costello's marine business, and also Village property I believe may border that zone, the parking lot.

MS. NEFF: You're talking about --

CHAIRMAN MOORE: Yeah, and the parking lot for the bus depot are all labeled this General Commercial. And within that district there are a series of permitted uses. And for one thing, the Commercial General District is any use in the Retail Commercial, plus service establishments furnishing services other than personal nature, self-service gasoline stations, light manufacturing, wholesaling, research and design. And then there's an issue, utility and public transportation facilities, and also then motor vehicle sales.

The reason for this Number 7, which is utility and public transportation facilities, may be that when the code was written, these activities were already present in that area. And to give a sanctification for that type of activity, that may be the reason for this very
limited district.

Now, the Retail Commercial District is a much larger area. It covers most of the downtown areas. And then there's this outpost area up in -- I believe the Townsend Manor Inn might be that property, that are Retail Commercial. And you're welcome to -- can I take that?

MR. CORWIN: Yes.

MS. NEFF: I'll pass it back.

CHAIRMAN MOORE: And in this case, the Commercial Retail permitted activities are retail stores and banks, personal service stores, which are referenced as barber shops, beauty parlors, etcetera, eating and drinking places, business, professional, government offices. And then another item is service establishments furnishing services other than of a personal nature; theaters, hotels, motels, outlets and pickup stations for laundries and cleaning establishments, newspaper printing, manufacturing, clubs, funeral parlors, marina
docking facilities, gasoline stations and self-service gasoline station. So that the confusing issue here — and, of course, service repair garages as well is listed in Retail Commercial.

So the question that comes up is that

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public transportation services, I assume, are those things such as regularly scheduled transportation services, the train, the buses and things like that; whether or not a taxi service is considered a public transportation service or more of a private service. But is it a nonpersonal service that would cover for both regions, or are we really talking about the fact that the General Commercial section does have reference to public transportation services?

So that's kind of the area of our discussion as to whether services, other than personal nature, would include a taxi service. So I'd entertain discussion along those lines.

MR. CORWIN: I'm afraid I didn't do my
homework on this, so --

MS. NEFF: Could you read the part of the code, the CG, that you said personal, that might relate to that. I know it said laundry and theaters and all this, but is there anything that comes close to this?

MR. CORWIN: But, wait.

CHAIRMAN MOORE: Yes.

MR. CORWIN: Before you do that, the designation of that parcel now is Commercial Retail?

CHAIRMAN MOORE: Retail Commercial, I believe.

MR. CORWIN: And the one with the -- that you referred to that says public transportation services?

CHAIRMAN MOORE: Oh, General Commercial, yes.

MR. CORWIN: Is General Commercial?

CHAIRMAN MOORE: And that is this district that basically parallels the Long Island Railroad
line to the dock.

MR. CORWIN: Oh, I see. So they threw that in for the Long Island Railroad and the ferry.

CHAIRMAN MOORE: I'm assuming that this strip, which was not just transportation, there are some other private businesses.

MR. CORWIN: So that's more or less a special case.

CHAIRMAN MOORE: It seems like a special case. And the question before us is whether within the Retail Commercial District something such as a taxi service could be defined. And I would have to assume it would only be defined under service establishments furnishing services other than a personal nature, whether that -- you know, being personal service stores would be things that are things like beauty parlors, and barber shops, and tailors. And that's really the crux of the matter, is whether the fact that the -- General Commercial mentions public transportation services, whether that limits
them, such as a taxi service, to that district, which is very limited within the Village. There's only, I think, one property there that was used for storage of vehicles that had been a car rental agency out on the main road.

MR. CORWIN: On the old Burt's Reliable property.

CHAIRMAN MOORE: I believe, yeah. I'm not sure that this --

MR. CORWIN: The Burt's property.

CHAIRMAN MOORE: That was the old Burt's property, yeah.

MR. CORWIN: Let me ask Mr. Abatelli a questions. There are some changes proposed for the zoning code. Do they in any way affect this?

MR. ABATELLI: I don't think so, no. I know taxis never came up, and none of -- it's really all -- the only changes are mostly in the Waterfront Commercial Zone.

MR. CORWIN: And then, as I said, what is a taxi service? I mean, it's basically saying April 16, 2014
you're going to park the car there, I guess.

CHAIRMAN MOORE: And, you know, that -- I think one of the things that was pointed out today is that the public comments basically were being directed to the nature of how the business would operate, and any offenses that the increased use of the facility might, you know, cause negative effects on the community. And that's all, in my understanding, a Planning Board activity, that they deal with these issues, and approve or disapprove an intensification of use based on these factors.

I think the question comes up as to whether, you know, a taxi service is a -- other than a personal service that can operate from a retail business. The code does not mention every permitted activity, and I -- you know, if -- you know, retail stores covers a pretty wide range of things, but they also include gasoline stations, self-service gasoline stations and repair garages, which that property formerly was.

MR. ABATELLI: I --
CHAIRMAN MOORE: And -- go ahead, yeah.

MR. ABATELLI: In trying to remember back to the Planning Board process, they were -- I mean, they had the exact problem you're talking about, whether it was clearly permitted or not permitted. They were acknowledging that there are taxis even now, you know, that just are in the Village. They park actually at the marina. A lot of times during the summer there's just a car parked in there and other places, they just are there. They mostly were concerned about where they would keep the cars, how many cars. I mean, there was always talk just about two cars. They didn't want to interfere with the existing parking, which they knew was just barely adequate, if adequate at all.

They did talk about the dumpster, but there wasn't -- they just really weren't sure whether a taxi service is permitted or not, per se. They acknowledge that taxis exist, but it's the operation, you know, that's -- they almost were saying even two -- you know, one of the people said, "Well, you could park the car in your driveway and take phone calls over the" -- you
know, it was like, you know, they can be

Mr. Benjamin: A car service, yeah.

Mr. Corwin: Which is what everybody's doing right now, because there's a lot of them around, and it's parked in somebody's driveway.

Mr. Abatelli: So it was -- you know, they weren't really sure how to deal with it and you guys are stuck with it.

Ms. Neff: If I may, I think in the absence of a drawing that shows what was approved at the time this was approved, with the parking spaces shown, the land, everything, the idea that it could exist with no curb whatsoever to the property to the south seems rather amazing.

And there is a lot of -- there are a lot of people, particularly little people, you know, children, that have to pass by in that area, so I
don't see how we could really talk about this
without that.

And, yes, a car service, I'm very familiar
with them in areas that I visit in the City, in
Brooklyn. It's a little place with a lot of cars
coming and going and at least one sitting there.
Is this envisioned as a place where two cars, two
taxi might sit in the evening hours, or whenever
they're not busy?

MR. ABATELLI: I think, and again, I don't
want to completely answer, but --

MS. NEFF: Mind you, subcontracting them
from the other parking spaces.

MR. ABATELLI: But what the Planning Board
-- he was always talking about two cars. The
Planning Board did feel that whatever -- if they
were to approve something, they would have to
have a number of cars, because there's clearly --
I think it's almost like a restaurant, there's a
big difference between one and 20 cars. You
know, so it was clearly -- they would put a limit
on the number of cars and where they would park, you know, and they would -- of course, the applicant would say, which ideally would be true in a perfect world, that cars would be out all the time driving around, but a lot of times they wouldn't be. But they could also park at the train station, or at the marina, or anywhere, you know, waiting for --

MR. BENJAMIN: But it seems like there's two questions. One is it permitted by the code? But, then, if it was, could it be permitted in this place? But if he already has designated parking areas, and if areas are designated, then they can't be used for something else.

CHAIRMAN MOORE: And that's sort of not the question we're being asked, of course.

MR. BENJAMIN: Right.

CHAIRMAN MOORE: I think they're getting to that.

MR. BENJAMIN: So -- but what comes up is a lot more questions, you know, a lot more
questions. And it seems like it's just a
question that was never answered before, that's
all.

CHAIRMAN MOORE: Right. Under the -- oh,
go ahead, yes.

MR. CORWIN: Our question is can somebody
have a taxi service in Commercial Retail?

MS. NEFF: In a Commercial Retail.

MR. CORWIN: Our questions -- the Planning
Board's question is do they have enough parking
spaces, and are they taking care of their
property? That's not our question. So I don't
think we can conflate -- is that the right

word -- the two things together. I think, can a
taxi service be allowed in Commercial Retail?
And that's really all we should address, and let
the Planning Board, and the Code Inspector, and
the Building Inspector address the question of do
they have adequate parking, and is it going to
make more of a mess, or be a hazard for
pedestrians.
CHAIRMAN MOORE: Yeah, and I think that's the point here. And when you look through the code for some specific applications that are identified, a service station or repair garage has about a dozen operational stipulations as far as how it would operate. The same goes for self-service gasoline stations. Most of these are safety-related because of the fact that customers are dispensing the gas. Many of the other operations are just defined by name, and the service establishments, furnishing services other than a personal nature could be any number of different services being provided, as well as personal service stores, where, you know, different kind of personal services are applied.

I don't think the code necessarily excludes it. You know, there's a slightly broader section in the General Commercial that identifies, you know, utility and public transportation facilities, but that does not necessarily mean that a private car service fits that definition.
You know, it could, but, you know, my inclination is that the code isn't restrictive of that kind of operation, and it is a service being provided through a commercial entity. So that I think most of the difficulties come to the operational questions before the Planning Board. And I don't have a lot of objection to that activity being a part of a Commercial District

MR. BENJAMIN: Yeah, but it's not associated with that business. If it was Layyah that was having a delivery service or something, or a laundry had a delivery service, or the pizza had a delivery service, or the hotel had a pickup service, you see, they would all be associated with it, but this is not associated with this particular business.

CHAIRMAN MOORE: Well, it is the owner's particular business. It's another facet of his commercial business. I mean, I believe the code, especially in the sign regulations, talk about businesses with more than one type of business

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activity in an individual building. I mean, he could just as well operate a tax consulting service out of the store at the same time, I believe. But, again, it would come to the Planning Board dealing with customer flow, parking --

MR. BENJAMIN: Right.

CHAIRMAN MOORE: -- and things like that. I think part of the difficulty is that the, you know, stated operational difficulties that might currently be happening casts a kind of negative effect on the public regarding an intensification of activity, and, again, that's a Planning Board issue. They have to deal with whether a property can carry a certain level of activity and deal with that.

MR. BENJAMIN: Then the other thing is that if it required a variance, an area -- a use variance, well, we don't give use variances, do we?

CHAIRMAN MOORE: Well, they can.

MS. NEFF: Yes.

CHAIRMAN MOORE: They're more difficult to obtain.

MR. BENJAMIN: And that would require
financial reports.

CHAIRMAN MOORE: You know, and, certainly, if there are issues — one of the thoughts I had, which is again operational, not technical, is a lot of private taxi services such as these have a number of cars that are not currently operating because they're mechanically broken. They have a tendency to accumulate in the parking lot of the taxi service. So, again, that's not a matter of whether that's allowed or not as a taxi service. It's an operational difficulty that is a fact of life, and, again, a Planning Board issue.

So I don't know if you'd want — we'd want to just move through just an up or down vote as to whether we a support a taxi service under Commercial Retail, under Item 5, which is a service other than a personal nature, and let it go at that; would that be the approach?

MR. CORWIN: I'm inclined to agree with your interpretation, that it's basically an allowed use, so, yeah.
CHAIRMAN MOORE: Would the rest of the Board be inclined to offer their support or lack of support for that direction?

MR. BENJAMIN: Service establishments furnishing services other than personal nature.

I don't --

MR. CORWIN: The thing that strikes me about this is it's a needed service, because you've got a lot of people in Greenport, they come out from the big city, they need a taxi to go from the railroad station to wherever.

MR. BENJAMIN: Yeah.

MR. CORWIN: And in this respect you're having more control over it because you're allowing it in a commercial use, rather than in somebody's driveway.

MR. BENJAMIN: Right.

CHAIRMAN MOORE: And that same statement about other than personal nature is also in the General Commercial District. You know, that could also operate. In fact, if the Planning
Board determined they couldn't carry that amount
of spaces, then the owner would have to find
other places to keep the cars. I mean, it's
really an operational question.

So, if the Board would want to go ahead
with an initial discussion --

MS. NEFF: I just want to say that it seems
to put more things happening in the site,

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that from the speakers who addressed us is a
problem and it has negative impact on the
neighboring properties. That's not our job to
address, but I think it has to be noted. And I
think that it could be a permitted use, but the
safety of people in the vicinity is not like a
small thing.

MR. CORWIN: I think the better term is the
quality of life.

MS. NEFF: Well, I think safety and quality
of life, but I don't see it as different.

MR. CORWIN: Because I don't accept the
argument that little kids are going to get run
over because of the taxi there. There's laws
against reckless driving. But you're correct in
that it's a quality of life issue, but I don't
think that's our purview to address it, it's the
Planning Board's.

MS. NEFF: Okay.

CHAIRMAN MOORE: You know, and not to be
facetious, but avoiding the taxi service under
Item Number 5, light manufacturing is permitted
up to 20% of square footage for those items being
offered for sale at the business. The owner
could apply also for a mortuary at the site. He
could reintroduce a gasoline service station such
as it was before. Those are all permitted uses,
but I think if he proposed all of those together,
he's going to hit a brick wall, because it's just
not feasible on the property.

MS. NEFF: Right, right.

CHAIRMAN MOORE: It really comes down to
property capacity. And the question, we're not
being asked that question. We're just being
asked does the code under 150–9 through -- which I can see as the only place that it's permissible is Number 5, service establishments furnishing services other than a personal nature. Does that define a taxi operation? My opinion is it does. It doesn't -- it doesn't exclude it.

MR. CORWIN: Well, let's have a vote and see what happens.

CHAIRMAN MOORE: Yeah. Why not?

MS. NEFF: Let's vote.

CHAIRMAN MOORE: Okay. First item is we again have to declare ourselves Lead Agency according SEQRA; declare it also a Type II Action. And I would make that motion and ask for a second.

MS. NEFF: Second.

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CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.
And then the motion, see if I can make it, is that according to the request from the Planning Board for interpretation of 150-9, Commercial Retail District, that we would offer our interpretation that under 150-9(A)(5), service establishments furnishing services other than a personal nature could include a taxi service business. And with that, I make that motion and ask for a second.

MR. CORWIN: Second.

CHAIRMAN MOORE: And all in favor?

MS. NEFF: Aye.

MR. CORWIN: Let's do a roll call.

CHAIRMAN MOORE: Let's do a roll call, very well.

CHAIRMAN MOORE: Mr. Corwin?

MR. CORWIN: Yes.

CHAIRMAN MOORE: Ms. Neff?

MS. NEFF: Aye.

CHAIRMAN MOORE: Mr. Benjamin?

MR. BENJAMIN: Yes.
CHAIRMAN MOORE: And I would also say yes.

So the motion carries.

And we will send a communication back to
the Planning Board that our interpretation is
that a taxi service would not be restricted in a
Commercial Retail District. Very good. Thank
you.

And we can now move on. Item #3 is a
motion to accept an appeal for an area variance,
schedule a site visit and schedule a public
hearing for Orin and Jamie Kimball, 818 Main
Street, Greenport, New York; Suffolk County Tax
Map 1001-2-2-24.1. The property is located in
the R-1 District and within the Historic
District.

The owners propose to build an addition to
an existing structure, and the building permit
was disapproved on the following grounds:

The proposed side yard setback for the new
construction is nine feet, requiring a three-foot
side yard area variance for the new foundation
walls.

The proposed addition has a basement access
door which will diminish the side yard by an
additional 3' 8'', reducing the side yard to 5' 4'', increasing the required variance to 6' 8'' on the south property line.

Section 150-12A of the Village of Greenport Code requires a 12-foot side yard setback in the R-1 District.

Just to make a comment on this, there has been discussion on these two items. One is that the addition, if you've reviewed the property plan, clearly enters in the restricted side yard area. And there has been some discussion as well as a stairwell, which is a substantial size piece of foundation, extends even closer to the side property line. So, at this point, we have included that in the variance request.

There's another item that will follow, which is a more general question as to whether in all cases a Bilco door or a stairwell should be included in or excluded from a need for a variance if it does enter a side yard.

But the Item #3 is basically to accept this application for consideration of an area
variance, and then schedule the necessary public hearing and public notifications.

I have reviewed it. It looks like it's in order, and the proper information has been provided. So, with that, I would make a motion that we accept this application for consideration.

MR. CORWIN: Questions on this application prior to voting.

CHAIRMAN MOORE: Yes.

MR. CORWIN: I have to acknowledge first that I haven't been doing my homework on these things. What I used to do is go into the Building Inspector's office and review something like this prior to the meeting. But I really can't deal with the Building Inspector anymore because she has told me too many times that she wants low-income housing for her children, and she's pursued that agenda, so I have chosen to avoid her as much as I can. And that's certainly a shortcoming on my part. So be it.
Now, we've had in the last year two applications that I assume the Building Inspector reviewed. I assume Mr. Abatelli does not review these things, and they were not properly reviewed. And we ended up, when the tape was off, I won't say hollering and screaming, but raising our voices a little. The Attorney was upset.

And the last one was that house on North Street where there were several other variances that were needed and it came before us with just one variance request.

So the point here is these things are not reviewed properly. And until I have the opportunity to review it myself, I can't vote yes on it.

So then look at this application, look at the second page, and down at the bottom it says, "Signature of Applicant." There's no signature, but it's notarized, and it's not notarized properly. So I don't see how we can accept this
CHAIRMAN MOORE: I'm just following here that you're referring to this notary signature here?

MR. CORWIN: Yes. It's not signed by the applicant that I can see, but it's notarized, but it's not notarized properly. You have to have the county that the notary is registered in and the notary's --

MS. NEFF: Stamp.

MR. BENJAMIN: Seal.

CHAIRMAN MOORE: Or the imprint, right?

MR. CORWIN: Seal number. You don't have to have the imprint, you have to have the county and the seal number.

CHAIRMAN MOORE: Okay. So what's the pleasure of the Board? Would we reject this application and send it back for clarification? Would that be appropriate?

MS. NEFF: Uh-huh.

CHAIRMAN MOORE: I'm looking to see if
there is any signature. Mr. Uellendahl?

MR. UELLENDAHL: Yes. I did submit the
application, and I was going to go to my bank and
have it notarized and there was no notary
present. I went to the Village, there was no
notary present. And I went to Eileen Wingate and
she said we don't need -- "You don't need a
signed notary." With that, I left it with her.
And that has happened before, that I did not have
to have a notary.

Now I'm dealing -- my applications are
dealing more with Southold Town, where I do have
to have the notarization. But in this case she
said, "I'll accept it as this."

CHAIRMAN MOORE: Okay. Well, I think --

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MR. UELLENDAHL: I could have done this any
time. This should not be a reason to not accept
at least the application. I can do it tomorrow
morning and have it submitted to the Building
Inspector.

CHAIRMAN MOORE: Would the Board accept a
provisional acceptance of the application pending clarification of the proper signature, would that be appropriate? Because then --

MR. CORWIN: Not for me, because --

CHAIRMAN MOORE: Okay.

MR. CORWIN: -- I'm trying to illustrate a principle here, that the Building Inspector does not do these things properly. The Building Inspector can't take the form and decide how it should be filled out. There's a line there to notarize it. She said, "Forget about it." Come on, what's going on here?

CHAIRMAN MOORE: Okay. Mr. Abatelli, is it a requirement? I'm not familiar with the process. I only see these when they arrive as photocopies. Is that the normal process? Is it signed and notarized?

MR. ABATELLI: It certainly should have been signed.

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CHAIRMAN MOORE: As a requirement? Yes.

MR. ABATELLI: I wouldn't want to -- I'm
not even, to be honest -- does it have like an
actual notary place?

CHAIRMAN MOORE: There's a signature and a
date, but, as Mr. Corwin says, there's no --
MR. UELLENDahl: It's not notarized
CHAIRMAN MOORE: It's not notarized. Okay.

So --

MS. NEFF: But is the signature in the
wrong place?

MR. UELLENDahl: No. I signed it.
MS. NEFF: Okay.

MR. UELLENDahl: But I was going to have it
notarized, but there was no notary present. And
I can have this done first thing in the morning.
I mean, I can go to Southold Town, because they
have notaries there --

MS. NEFF: The bank has notaries.

MR. UELLENDahl: -- from 8 to 4:30.

CHAIRMAN MOORE: And what is the purpose --
I'm uneducated in this area. What is the purpose
of the notary for your or the applicant's
signature? Is it because you're acting in behalf of?

MR. UELLENDahl: Yes, I'm acting in behalf
of the -- well, even if I was not the -- you
know, I am the representative of the owner, but
the owner could have done it himself.

CHAIRMAN MOORE: Yes.

MR. UELLENDHAHL: But the owner himself
would also have to have it notarized.

CHAIRMAN MOORE: Okay.

MR. UELLENDHAHL: So it doesn't matter.

Either the owner or I would have to have it
notarized.

CHAIRMAN MOORE: Okay. So what I think
is -- the other thing that I have noticed in the
past is that when a representative is coming to
the meetings in behalf of the applicant, that
that person have a letter from the applicant
authorizing them to serve in their behalf, and I
don't see that in the package.

MR. UELLENDHAHL: Yes. And I asked Eileen
that as well. I said, "Do you want me to file a
letter," and she said no.

CHAIRMAN MOORE: Okay. I think we're going
to have to return it to have those --

MS. NEFF: Can I say something?
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is signature on his -- is that the owner's?

MR. UELLENDahl: This is the owner's signature. I had -- because this is his own answers to the first two questions.

MS. NEFF: Right.

MR. UELLENDahl: And I could not answer those, because it's very personal. And I had him -- I asked him to sign it, and this should account for something.

CHAIRMAN MOORE: Okay.

MS. NEFF: May I say something?

CHAIRMAN MOORE: Oh, here it is. I have that copy.

MS. NEFF: May I say something?

CHAIRMAN MOORE: Yes, go ahead.

MS. NEFF: Okay. In view of the fact that this is signed by the owner, not notarized, and that your name is on the plans, and that you can provide both a signature and a notary, and
there's a notary in every bank in Greenport, at
least one.

MR. UELLENDahl: I can do it first thing in
the morning. I'll submit it tomorrow.

MS. NEFF: Yes. That I'm willing -- and
the sense of what this application says, doesn't

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say time is in the essence in so many words, but
it talks about a need.

CHAIRMAN MOORE: Yes, I was aware of that,
a health issue.

MS. NEFF: That have this signed and that
we could put it -- we accept it and put it on the
calendar is in my view a possible compromise.

MR. UELLENDahl: Thank you.

CHAIRMAN MOORE: Right. And I would like
to make that recommendation also, so not to
penalize either Mr. Uellendahl or the owner, but
maybe make reference back to the source of the
problem, and provisionally accept this pending
proper submission. And I'll make that motion and
ask for a vote, since we've discussed it. And
we'll take it as it goes, and any no votes will be duly noted. And I'm sure we'll get it straightened out. So with that, I make that motion and ask for a second. 

MS. NEFF: Second. 

CHAIRMAN MOORE: And all in favor? 

MS. NEFF: Aye. 

CHAIRMAN MOORE: Aye. 

Any discussion? 

MR. BENJAMIN: Yeah. I was going to say something. We could all see it tomorrow, then it would be tentative on seeing it tomorrow. 

CHAIRMAN MOORE: Well, we can't -- 

MR. BENJAMIN: If it was sooner, we could see it. 

CHAIRMAN MOORE: -- form another meeting tomorrow, unless we convene an official meeting. So I would say we have to do it provisionally. And the test will be that if the paperwork is not in order at the next meeting, then nothing happens, but --
MR. UELLENDAHL: No. I will make sure that it will be there tomorrow. But I would really like to ask you to -- you know, to talk to the Building Inspector. And, you know, going forward, I mean --

CHAIRMAN MOORE: Okay.

MR. UELLENDAHL: -- I don't know how to proceed with other projects.

CHAIRMAN MOORE: Right. I will certainly make that note. So we have a vote. And, Mr. Benjamin, can you vote, please, whether you support accepting this application with that provision? And it's a yes or no vote, so you can say as you like.

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MR. BENJAMIN: Yes.

CHAIRMAN MOORE: Yes? And, Mr. Corwin?

MR. CORWIN: You're calling for the no votes?

CHAIRMAN MOORE: I'm calling for the no votes or yes votes.

MR. CORWIN: No.
CHAIRMAN MOORE: And I will say yes just to move the process forward. And Mr. Corwin's no vote is understood, and noted and —

MR. CORWIN: Now I just want to point out again, this has happened repeatedly, that the Building Inspector has screwed these things up, and nothing comes of it. It's a free pass. It's civil service, you do what you want to do. And I'm paying her salary and I don't like it one bit. Not only does she screw the applications up, she is extremely biased. We're all biased. She takes it to a new level.

CHAIRMAN MOORE: Okay. Thank you. Well, so that has been forwarded for scheduling. And we will be asking to have the proper documentation in place, and, hopefully, in the next few days.

Now, relating to this application above,

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I'm making a motion to accept the request from the Building Inspector for an interpretation and schedule a public hearing. As per a memo from
the Building Inspector, dated 4/16/2014, and in connection with a pending appeal for variance, Item 3 above, an interpretation is requested of Section 150-12A regarding whether to include below grade improvements in consideration of side yard setback variance requests.

The crux of this matter is that in the past, the Building Department has not included stairwells, or Bilco doors, or chimneys in the foundation footprint when calculating setbacks. And, in practical terms, if an applicant is coming forward with a house that meets the proper setback requirements, and only a Bilco door perhaps is intruding into a side yard, the cost of that process, not only time but monetarily to the applicant, might be considered to be unfair.

And what I'd like to do is have a discussion next month, based on the request of the Building Inspector, to try and determine whether we should or shouldn't include, or conditionally include them under certain circumstances.
I think, Mr. Corwin, you've had some discussions with the Building Inspector from a past project where we overlooked a Bilco door that did intrude into a side yard. It never came up in our discussion process.

And there are circumstances that perhaps this might be important to an adjacent property owner if it's quite close to the property line. So I think, you know, we deserve a discussion of this next month, and then we can make a recommendation back to the Building Department.

So I'd make a motion to accept that request for interpretation.

MR. CORWIN: So now can we do this before we pass on the --

CHAIRMAN MOORE: Yes.

MR. CORWIN: The question #3, I mean, this should -- 3a should come ahead of #3.

CHAIRMAN MOORE: I think we will put that on the agenda ahead of the other discussion, so that we can or cannot include it in the request.

It's an interesting proposal that is being made for this addition for Item #3, because there is already a structural wall that will enclose
the new construction, as well as the stairwell,

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so that it would be invisible to the neighboring property. So it may not be such a pertinent discussion for this case. But when you inspect the property, which we'll do before the meeting next month, you'll see what I mean. It's a very interesting project as it is currently, and this addition actually fits within that structure.

So I'm making that motion, that we will discuss this at the next meeting, and I'd like a second, please.

MS. NEFF: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

And, Mr. Benjamin, did you answer?

MR. BENJAMIN: Yes, aye.

CHAIRMAN MOORE: Yes, aye. So that motion carries.

Number 4 is motion to accept the ZBA
minutes for February 19th, 2014. So moved. May
I have a second, please?

MR. BENJAMIN: Second.

CHAIRMAN MOORE: And all in favor?

MR. CORWIN: Aye.

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MR. BENJAMIN: Aye.

MS. NEFF: Aye.

CHAIRMAN MOORE: Aye.

The motion carries.

Motion to approve the ZBA minutes for
January 15, 2014, that should be, not '13. So
moved. Second, please.

MS. NEFF: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

And then motion to schedule the next
regular ZBA meeting for May 21st, 2014.

And I would also suggest that we meet at
4:30 at the 8 — is it 818 Main Street?

MS. NEFF: Uh-huh.

CHAIRMAN MOORE: To look at the property.

And we would also ask that that area be staked out. We'll have to communicate that back to Eileen to tell the property owner.

MR. UELLENDHAHL: I will take care of that.

CHAIRMAN MOORE: Yes. Oh, sorry. I forgot you were there.

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MR. UELLENDHAHL: Yes.

CHAIRMAN MOORE: And that will be done, then, next month, May 21st. Everybody's agreeable to that? I don't know if we have to have a formal motion on that.

MS. NEFF: Yes.

CHAIRMAN MOORE: And then the final is Item #7, which is a motion to adjourn. And a second, please?

MR. CORWIN: Did we vote on #6?

CHAIRMAN MOORE: If you'd like to. I'll
make that motion for May 21st, 2014. And a second, please.

MS. NEFF: Second.

CHAIRMAN MOORE: All in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

The motion carries.

And then a motion to adjourn.

MR. CORWIN: Prior to adjourning.

CHAIRMAN MOORE: Yes.

MR. CORWIN: There's this letter here from Mr. Costello, and he asked for an additional 18

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months. And my understanding is that that approval of that project, the time frame expired.

CHAIRMAN MOORE: It did.

MR. CORWIN: And he had to submit a new application.

CHAIRMAN MOORE: He had to submit an application for a variance, which would involve
an extension of the normal six-month limit. And
he has since withdrawn that request and says that
when the time comes that he wished to move
forward, he will reapply for a variance, so that
has satisfied that question. In other words --

MR. CORWIN: Okay. So his --
CHAIRMAN MOORE: It's off the table.

MR. CORWIN: It's off the table, period.
CHAIRMAN MOORE: Yes.

MR. CORWIN: Okay.

CHAIRMAN MOORE: And he says he'll just
come back in the future and reapply.

MS. NEFF: Okay.

MR. ABATELLI: I think that was the case.

And the Sommer --

MR. ABATELLI: I think he's even
considering changing the --
CHAIRMAN MOORE: Yeah.

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MR. ABATELLI: — plan a little bit.
CHAIRMAN MOORE: Okay. And the Sommer
application is also withdrawn.
MR. CORWIN: So this time you're going to review it, rather than the Building Inspector, right?

MR. ABATELLI: I won't actually be here. Somebody -- the new person will, most likely. I mean, if it's 18 months, I hope.

CHAIRMAN MOORE: Yeah, someone.

MR. CORWIN: Well, we could call you out of retirement.

MR. BENJAMIN: I have his cell phone.

CHAIRMAN MOORE: I have a feeling you may be trying to get far away from the ZBA. So, if there's no further discussion, could I make a motion to adjourn and ask for a second?

MR. CORWIN: Second.

CHAIRMAN MOORE: Very good. And all in favor?

MR. CORWIN: Aye.

MS. NEFF: Aye.

MR. BENJAMIN: Aye.

CHAIRMAN MOORE: Aye.

(Whereupon, the meeting was concluded at 6:41 p.m.)

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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 April 16, 2014.

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 26th day of April, 2014.

________________________________________
Lucia Braaten