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VILLAGE OF GREENPORT
ZONING BOARD OF APPEALS

REGULAR MEETING

May 21, 2014

5:00 p.m.

Meeting held at the Greenport Firehouse
236 Third Street, Greenport, New York 11944

APPEARANCES:

Douglas Moore – Chairman

Charles Benjamin

David Corwin

Ellen Neff

Joseph Prokop – Village Attorney

David Abatelli – Community Development

Director

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1 (Whereupon the meeting was called to
2 order at 5:04 p.m.)

3 CHAIRMAN MOORE: This is the regular session
4 of the Greenport Zoning Board of Appeals on May
5 21st, at about 5:04. And we have a public hearing
6 tonight and then our regular agenda.

7 And I'd like just to read the item for the
8 public hearing. It is a public hearing for an
9 appeal for an area variance for Orin and Jamie
10 Kimball, 818 Main Street, Greenport, New York,
11 11944; Suffolk County Tax Map #1001-2-2-24.1. The
12 property is located in the R-1 District and within
13 the Historic District.

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

17 The proposed side yard setback for the new

18 construction is 9 foot 0 inch, requiring a 3-foot
19 side yard area variance for the new foundation
20 walls.

21 The proposed addition has a basement access
22 door which will diminish the side yard by an
23 additional 3 foot 8 inches, reducing the side yard
24 to 5.4 feet, increasing the required variance to
25 6 feet 8 inches on the south property line.

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

4 Just to review the notifications, I believe
5 this was noticed in the Suffolk Times. The placard
6 was on the property, I noticed, an appropriate
7 period of time, and the following property owners
8 were notified:

9 Gary Rempel and Mary Ann Rempel, 500 Gagens
10 Landing Road, Southold. I don't know the adjacent
11 property location. Cindy McNamara, 322 Monsell
12 Place; Gary Short and Laura Short, 812 Main Street;
13 837 Main Street Realty Corp; James Betts, 262

14 Montgomery Street, Jersey City, New Jersey; Richard
15 and Mary Fiedler, 1380 Beach Road, Greenport; and
16 Victoria Filonenko, 843 Main Street, Greenport, New
17 York. And they have the confirmations of the
18 certified mail for those notifications.

19 I would invite the owner or the
20 representative, or both, to make a brief comment
21 about the scope of the project and what's being
22 requested.

23 MR. UELLEND AHL: Good evening. My name is
24 Frank Uellendahl. I'm here with Orin Kimball, the
25 owner. I am taking care -- I am the architect to

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1 design the addition that is proposed here. The
2 addition, as you can see on my site plan, is
3 located on the south side of the existing
4 structure. The existing structure is a new
5 building that was built --

6 MR. KIMBALL: In 2000.

7 MR. UELLEND AHL: In 2000. It has -- it's
8 situated at the corner of Monsell Place, Monsell
9 Place and Main Street, so we do have to deal with

10 two 30-foot front yards.

11 The property is improved with a garage facing
12 Monsell Place, and there is also an addition, a
13 one-story addition, on the south side of the
14 existing structure. And this is where we are
15 planning to extend the building to improve it with
16 a master bedroom suite. There is no bedroom on the
17 first floor, and, unfortunately, we have to have a
18 bedroom on the first floor which is handicapped
19 accessible.

20 So it's quite a modest extension, it's only
21 14 by -- 14 feet by 22, and plus a handicapped
22 accessible bathroom. But it will encroach onto the
23 12-foot side yard. We have two side yards, and
24 this is the 12-foot side yard in the R-2 -- in the
25 R-1 District. And we cannot really make it work to

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1 push the building back, because we need a little
2 bit more space for access into the bedroom. We do
3 need to make sure that we have the ADA --
4 ADA-compliant five-foot radius for a wheelchair to
5 turn around within the bathroom, as well as in the

6 foyer going into the master bedroom.

7 So there is also a full basement that is
8 proposed, and in order to make the basement
9 accessible, we are proposing to have a Bilco door
10 type access on the south side of this addition.

11 There is currently an eight-foot, a very tall
12 wall that was built at the time, and it was
13 approved by the ZBA and the Building Department as
14 an accessory structure. That's why it had to be
15 moved five feet off the property line. So,
16 basically, the owner to the south has the benefit
17 of five feet right now of using the driveway and
18 some of the plantings.

19 The design proposes to basically keep the
20 8-foot wall, but we're not married to this. If we
21 need to move it, if you decide that it would not be
22 possible, then we could talk about this. But, at
23 this point, we're going to keep the 8-foot wall,
24 and that also hides the addition even more. So it
25 is hardly visible from Main Street, only a corner

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1 of it is visible. It will have the same height as

2 the existing addition, which is 12 feet. It will
3 have a flat roof. And this is what we're proposing
4 tonight.

5 It did go through HPC approval this month,
6 and so we passed that hurdle, but now we have to
7 ask for a variance.

8 CHAIRMAN MOORE: Okay. And did the owner
9 himself wish to make a comment?

10 MR. KIMBALL: I have nothing to add to that
11 brilliant -- I think it was put forth perfectly.

12 CHAIRMAN MOORE: Would you just for the
13 record identify your name.

14 MR. KIMBALL: I'm Orin Kimball.

15 CHAIRMAN MOORE: Yes.

16 MR. KIMBALL: I am one-half of the ownership
17 of 818 Main Street.

18 CHAIRMAN MOORE: Thank you. So I think what
19 I'd like to do is take any additional public
20 comment, if there is any. And then, if we close
21 the public hearing, we could engage in a discussion
22 about some of the details of the project.

23 Anyone else from the public wish to speak?
24 I'll look directly at you, since you're the only
25 other ones here.

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1 AUDIENCE MEMBER: No.

2 CHAIRMAN MOORE: Very well.

3 MS. NEFF: Any written? No written.

4 CHAIRMAN MOORE: We don't have any written
5 information on file that I know of. I don't
6 believe so.

7 We had a discussion at the site visit with
8 the owner, that he is very friendly with his
9 neighbor to the south, which would be the most
10 affected property. And, according to Mr. Kimball,
11 the neighbor has no objections to the project,
12 although we have not heard directly from the
13 neighbor on that.

14 MR. KIMBALL: That is correct.

15 CHAIRMAN MOORE: Okay. Very good. Would the
16 Board want to entertain a motion to close the
17 public hearing?

18 MS. NEFF: I move that we close the public
19 hearing.

20 CHAIRMAN MOORE: All right. And could I have
21 a second, please?

22 MR. CORWIN: Second.

23 MR. BENJAMIN: Second.

24 CHAIRMAN MOORE: Yes. Any discussion on the
25 matter?

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1 (No response.)

2 CHAIRMAN MOORE: All in favor?

3 MR. CORWIN: Aye.

4 MS. NEFF: Aye.

5 MR. BENJAMIN: Aye.

6 CHAIRMAN MOORE: Aye.

7 So the public hearing is closed. So now we
8 can directly discuss this with the owner and the
9 representative.

10 From the site visit, this is not a
11 substantial addition to the building. The lot
12 coverage comes out to just under 30%, which is the
13 threshold, I believe.

14 We had a little bit of discussion. As you
15 mentioned, the -- I guess it's referred to as a
16 wall structure. It's within the original
17 construction, I believe, of the building. And you
18 mentioned both the ZBA and the Building Department

19 dealt with that?

20 MR. UELLEND AHL: Well, this is what I heard
21 from Eileen Wingate. She told me that this was
22 approved as an accessory structure at the time.

23 CHAIRMAN MOORE: Right, right.

24 MR. UELLEND AHL: It was approved by the ZBA
25 Board.

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1 CHAIRMAN MOORE: Oh, okay. I don't know the
2 actual official process it went through.

3 MR. UELLEND AHL: I did not -- I didn't see
4 the actual deliberation on this, but I took her
5 word for it.

6 CHAIRMAN MOORE: Right, yeah. At the time,
7 as it turns out, that was the interpretation. If
8 it's described as a fence, it exceeds the allowable
9 height and would have to be further from the
10 property line.

11 MR. UELLEND AHL: Correct.

12 CHAIRMAN MOORE: Now, at the site visit, it's
13 not clear whether this wall structure will remain
14 intact during the construction, or it might have to

15 be taken down. I would only say that I don't
16 personally consider it an issue for tonight's, you
17 know, discussion on the construction. There's no
18 request in on that item.

19 If it did come down and it was desired to
20 re-erect that wall, that might result in a need for
21 further variance. If it became a fence that's
22 compliant with code, it could be within the
23 allowances of a fence, according to the code. So
24 I'd just bring that point out. But I don't --

25 MR. UELLEND AHL: But that would not require a

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1 variance if we were to take down the 8-foot wall
2 and replace it with a 6-foot fence on -- possibly
3 on the property line.

4 CHAIRMAN MOORE: It would be a Building
5 Department issue.

6 MR. UELLEND AHL: It was a Building Department
7 and HPC issue, but not a ZBA issue.

8 CHAIRMAN MOORE: Correct. And the only
9 concern I have, as I indicated, and I think the
10 Board understands what I'm talking about, is that

11 if the wall was to be replaced and it did have to
12 be removed, that would probably generate a Notice
13 of Disapproval, and you might have to appeal for a
14 variance to replace that which is already there.

15 MR. KIMBALL: I feel that if we were to move
16 it or take it down, we'd stay within code. And I
17 don't think we'd build it right on the property
18 line, I don't think our neighbors would enjoy that.
19 However, we could move it over somewhat. But it
20 would not be an attachment or an accessory building
21 to the building.

22 CHAIRMAN MOORE: Yes.

23 MR. KIMBALL: It would become a 6-foot fence.

24 MR. UELLEND AHL: Okay.

25 CHAIRMAN MOORE: Are there any comments or

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1 questions from the Board members?

2 (No response.)

3 CHAIRMAN MOORE: The structure is, I think
4 you said, 12 feet high, and flat roof profile, a
5 single-story structure.

6 MR. UELLEND AHL: Correct.

7 MR. KIMBALL: Right.

8 MR. BENJAMIN: Did we open the meeting yet?

9 CHAIRMAN MOORE: Yes. Yeah, we closed the
10 public hearing, and we're dealing with the first
11 item on the agenda. I didn't make that clear,
12 perhaps, but I'm not going to read the same
13 statement again. It's referencing Item #1,
14 discussion for the Kimball request.

15 MR. BENJAMIN: Yeah, I understand that, but
16 we'd have to open the regular meeting before we
17 start.

18 CHAIRMAN MOORE: Okay. Well, I didn't know
19 that we had to officially declare it open, but --

20 MR. BENJAMIN: Okay.

21 CHAIRMAN MOORE: -- we are open.

22 MR. CORWIN: A question for the Architect.
23 On this proposed master bedroom, I guess there's
24 two doors. You couldn't count the door to the
25 bathroom. I'm just thinking in terms of fire and

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1 escaping the fire, and what are the requirements
2 for fire? In other words, a bedroom, you're

3 supposed to have a window you can get out of; is
4 that correct?

5 MR. UELLEND AHL: A bedroom -- excuse me, I
6 didn't get --

7 MR. CORWIN: In case of fire.

8 MR. UELLEND AHL: Right. The bedroom has in
9 the corner, facing the wood deck, an 8-foot sliding
10 door

11 MR. CORWIN: Okay. That wasn't clear to me.

12 MR. UELLEND AHL: That is access to the
13 courtyard.

14 MR. CORWIN: Thank you.

15 CHAIRMAN MOORE: And will that be the same
16 grade as the deck, then? You're going to be able
17 to access the back?

18 MR. UELLEND AHL: Yes, we're connecting it to
19 the existing deck.

20 CHAIRMAN MOORE: I had noticed the little
21 door in the corner as well.

22 MR. UELLEND AHL: Yeah.

23 CHAIRMAN MOORE: And it's, I suppose, a
24 36-inch door?

25 MR. UELLEND AHL: Yes. These are slide pocket

1 doors, 36 inches. That's the -- that's required
2 for handicapped access.

3 CHAIRMAN MOORE: And I'm just wondering, the
4 exit door in the corner.

5 MR. UELLEND AHL: Well, the exit -- well, the
6 exit door, I would consider the 8-foot slider the
7 exit door as per code.

8 CHAIRMAN MOORE: The only other thing is that
9 we are aware, of course, that the -- not Bilco
10 door, but the stairwell extends further south from
11 the building, so that we're talking quite a small
12 setback, if we do include that in our
13 consideration.

14 I should point out that we have a request
15 from the Building Inspector for an interpretation
16 of Bilco doors, chimneys and stairwells, because
17 there were some discussions in this proposal. And
18 we were not able to have that discussion before
19 this meeting, because that still has to be publicly
20 noticed, and we'll have a meeting, we'll be
21 discussing it next month.

22 There are some thoughts, and I'm not going to
23 talk details, because we're not deliberating the

24 question on the code, but this stairwell is
25 contained within the fence wall. It will be no --

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1 not at all visible from any external property line,
2 and is really a matter of safety for entry and
3 egress as far as its construction. That's a
4 Building Department issue, as far as I'm concerned.

5 You know, I'd like to focus on the structure
6 itself, but we will keep in mind that there's an
7 additional foundation line that is further south
8 than the main line of the building. So, instead of
9 a 3-foot variance, we're really talking about a
10 much smaller -- or a much larger variance.

11 MR. UELLEND AHL: Right. We started with the
12 variance, but then the Building Inspector was asked
13 by one of your Board Members to -- or by our
14 attorney, to include for this application the Bilco
15 door. That's why it is now --

16 CHAIRMAN MOORE: Right. And we certainly
17 have to take into account the size of that
18 additional structure and its significance to the
19 overall project.

20 MR. UELLENDahl: It was an amendment to the
21 approval.

22 CHAIRMAN MOORE: Yes, very good. Are there
23 questions or discussion?

24 MS. NEFF: Is there an existing Bilco door
25 somewhere else now to this?

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1 MR. KIMBALL: No.

2 MS. NEFF: No, okay.

3 CHAIRMAN MOORE: And the house has a basement
4 currently?

5 MR. KIMBALL: It has a very tall crawl space.

6 CHAIRMAN MOORE: Yes.

7 MR. KIMBALL: I could navigate like this
8 (demonstrating).

9 CHAIRMAN MOORE: Okay. So the new addition
10 will have a full --

11 MR. KIMBALL: Full.

12 CHAIRMAN MOORE: Full basement.

13 Are there questions or discussion from the
14 Board on the matter?

15 MR. BENJAMIN: Well, the obvious, did you

16 consider putting the Bilco on the east side?

17 MR. KIMBALL: Well, yes. We discussed a few
18 things on the east side. The east side will be a
19 visible area for recreation, if there's such a word
20 for this. It's some of the little bit of land that
21 would be remaining in the backyard for activity off
22 of the deck. So it does have an incursion in terms
23 of walkability or usability, plus, visually, it's
24 quite an eyesore.

25 Also, if you're suggesting that the Bilco may

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1 one day become part of a structure, this is a
2 violation, too, because we would then have to --
3 we're on 30 feet. That's one of the hardships here
4 of this property by being a corner lot. It has two
5 front yards and a backyard and they're both -- all
6 three of them are 30 feet, which -- so the side
7 we're talking about here is our sole side of 9
8 foot, 12 foot, 10 foot, 5 foot, zero foot, whatever
9 is the negotiation. So I believe that your
10 suggestion would also have an issue from a
11 potential legal or zoning issue.

12 CHAIRMAN MOORE: Ellen, did you have adequate
13 opportunity for questions?

14 MS. NEFF: Uh-huh.

15 CHAIRMAN MOORE: And I think the statistics,
16 it all boils down to a side yard setback for which
17 you only have one side yard, and the requirement is
18 12 feet in the R-1 District.

19 MR. UELLEND AHL: And just for the record, I
20 would like to add that there are many examples in
21 the Village of Greenport where the structures or
22 residences are much closer to the property line,
23 and I mentioned this at our site visit. On Central
24 Avenue, Lorraine Kreamling's house that blew up
25 during a gas explosion, we basically built the same

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1 kind of access into a full basement there, and it
2 was right on the property line. Here, we are still
3 five-foot-something off the property line.

4 CHAIRMAN MOORE: Yeah. Well, my impression
5 on the whole thing is that it's a small addition,
6 and if you include the stairwell, it does come
7 quite close to the property line. But one saving

8 grace is the existing 8-foot-high wall which
9 already provides quite a good screen from that
10 angle. I think it neutralizes the Bilco door issue
11 or the stairwell issue. And that's going to be
12 covered or just open?

13 MR. UELLEND AHL: No, it should be -- it will
14 be covered. It will be covered, because, you know,
15 you don't want to create an open staircase

16 CHAIRMAN MOORE: It would have a trap door
17 kind of thing?

18 MR. UELLEND AHL: Yes, it will have some kind
19 of cedar door opening and then you walk down. It's
20 going to be protected. And there will be a drain.
21 Otherwise, we would have a drain issue.

22 CHAIRMAN MOORE: Right.

23 MR. UELLEND AHL: But we don't want to do
24 this, so it's going to be covered.

25 CHAIRMAN MOORE: You know, because it's

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1 enclosed, again, and it's totally screened from
2 public access, again, you know, it's nothing that
3 anyone would stumble into --

4 MR. UELLENDahl: Right.

5 CHAIRMAN MOORE: -- because it's enclosed
6 within the property.

7 So would the Board want to entertain moving
8 ahead with the questions and the process?

9 MR. CORWIN: Yes.

10 MS. NEFF: Uh-huh.

11 CHAIRMAN MOORE: Very good. So the first
12 item is that we declare ourselves the Lead Agency
13 with regard to SEQRA, and that I would move that
14 this is a Type II Action. And I'd ask for a
15 second.

16 MR. CORWIN: Second.

17 CHAIRMAN MOORE: Any discussion?

18 (No response.)

19 CHAIRMAN MOORE: Then all in favor?

20 MR. CORWIN: Aye.

21 MS. NEFF: Aye.

22 MR. BENJAMIN: Aye.

23 CHAIRMAN MOORE: Aye.

24 So the motion carries.

25 And then the -- I'll just get my paperwork in

1 order here. We have the standard five questions
2 for an area variance.

3 Whether an undesirable change will be
4 produced in the character of the neighborhood, or a
5 detriment to the nearby properties will be created
6 by the granting of an area variance?

7 And I'll ask for individual votes on this.

8 Mr. Benjamin?

9 MR. BENJAMIN: No

10 CHAIRMAN MOORE: Mr. Corwin?

11 MR. CORWIN: No.

12 CHAIRMAN MOORE: Ms. Neff?

13 MS. NEFF: No.

14 CHAIRMAN MOORE: And I vote no.

15 That whether the benefit sought by the
16 applicant can be achieved by some method feasible
17 for the applicant to pursue other than an area
18 variance?

19 Mr. Benjamin?

20 MR. BENJAMIN: No.

21 CHAIRMAN MOORE: Mr. Corwin?

22 MR. CORWIN: Yes.

23 CHAIRMAN MOORE: Ms. Neff?

24 MS. NEFF: No.

25 CHAIRMAN MOORE: And I would vote no.

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1 Whether the requested area variance is
2 substantial?

3 Mr. Benjamin?

4 MR. BENJAMIN: No.

5 CHAIRMAN MOORE: Mr. Corwin?

6 MR. CORWIN: No.

7 CHAIRMAN MOORE: Ms. Neff?

8 MS. NEFF: No.

9 CHAIRMAN MOORE: And I vote no.

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

14 Mr. Benjamin?

15 MR. BENJAMIN: No.

16 CHAIRMAN MOORE: Mr. Corwin?

17 MR. CORWIN: No.

18 CHAIRMAN MOORE: Ms. Neff?

19 MS. NEFF: No.

20 CHAIRMAN MOORE: And I vote no.

21 And whether the alleged difficulty was
22 self-created, which consideration shall be relevant
23 to the decision of the Board of Appeals, but shall
24 not necessarily preclude the granting of the area
25 variance?

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1 Mr. Benjamin?
2 MR. BENJAMIN: No.
3 CHAIRMAN MOORE: Mr. Corwin?
4 MR. CORWIN: No.
5 CHAIRMAN MOORE: Ms. Neff?
6 MS. NEFF: Yes.
7 CHAIRMAN MOORE: And I also vote yes.
8 MR. CORWIN: Wait. I want to change my vote.
9 CHAIRMAN MOORE: Okay.
10 MR. CORWIN: The answer is yes.
11 CHAIRMAN MOORE: Yes.
12 MR. CORWIN: The correct answer is yes, in my
13 thinking.
14 CHAIRMAN MOORE: Okay. And that is not
15 binding on our decision.
16 And then, finally, I would entertain a motion

17 to approve the variance. If you want, I can
18 describe it, that we are approving the area
19 variance for the setback, including the stairwell,
20 and I assume with no stipulations. Any
21 stipulations being offered by the Board?

22 MR. BENJAMIN: The runoff, because it's going
23 to be closer to the property now, the runoff from
24 the roof, the flat roof -- it's a flat roof?

25 MR. UELLEND AHL: Correct.

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1 MR. BENJAMIN: Is going where?

2 CHAIRMAN MOORE: It would be contained on the
3 property?

4 MR. UELLEND AHL: Are we talking about roof
5 runoff?

6 MR. BENJAMIN: The rain runoff from the
7 addition.

8 MR. UELLEND AHL: Okay. Well, right now,
9 there are two -- I don't know if you saw them.
10 There were two copper leaders. One of them we're
11 going to maintain, because it's within the existing
12 addition towards Main Street. And the other one,

13 we're going to move down to collect the water, and
14 it will be -- yes, it will be contained.

15 You know, if we -- there is landscaping. We
16 can put a drain pipe into the landscaping, but it
17 will not go into public land or on the neighbor --
18 the neighbor's property.

19 MR. CORWIN: We would like to see some kind
20 of dry well.

21 MR. UELLEND AHL: Would you like --

22 MR. CORWIN: Yes.

23 MR. UELLEND AHL: -- to see a dry well? Okay.
24 We can -- Orin, are you opposed to bringing those
25 two leaders, connecting them to a dry well in the

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1 backyard, that would be in the backyard?

2 MR. KIMBALL: A dry well consists of a
3 cylindrical --

4 MR. UELLEND AHL: It's a concrete structure,
5 right. And I have to design this based on the
6 square footage. It's probably going to be a 4-foot
7 diameter or 6-foot diameter, and we could --

8 MR. KIMBALL: So it will be done?

9 MR. UELLEND AHL: This is not a big deal.

10 MR. KIMBALL: We already have one on the
11 Monsell side with one of our leaders.

12 MR. UELLEND AHL: Okay.

13 CHAIRMAN MOORE: Okay. We would simply
14 stipulate that the roof runoff would not exit the
15 property, so you would attend to that
16 appropriately.

17 MR. CORWIN: Yes.

18 MR. UELLEND AHL: Okay.

19 CHAIRMAN MOORE: Whether it's a cistern, a
20 dry well, or what have you.

21 MR. UELLEND AHL: We will make sure that it
22 will be contained on the property.

23 CHAIRMAN MOORE: Yes. So I would move that
24 we approve this area variance for a side yard
25 setback, with the only stipulation that any

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1 rainwater running off of the structure be contained
2 on the property. So moved. And may I have a
3 second?

4 MS. NEFF: Second.

5 CHAIRMAN MOORE: And I will ask for the vote.
6 Mr. Benjamin?
7 MR. BENJAMIN: Yes.
8 CHAIRMAN MOORE: Mr. Corwin?
9 MR. CORWIN: Yes.
10 CHAIRMAN MOORE: Ms. Neff?
11 MS. NEFF: Yes.
12 CHAIRMAN MOORE: And I vote yes.
13 So that motion carries, and the variance is
14 approved. And good luck with the project.
15 MR. UELLEND AHL: Thank you very much.
16 MR. KIMBALL: Thank you very much.
17 CHAIRMAN MOORE: I think it's very well
18 designed and presented, and I think it will
19 certainly be an addition to the house that you need
20 and will appreciate.
21 MR. KIMBALL: Thanks to this gentleman over
22 here. Thank you all.
23 MR. CORWIN: Good luck.
24 MR. KIMBALL: Thank you.
25 CHAIRMAN MOORE: Okay. Now we can move to

1 Item #2. If you'll bear with me while I put things
2 away. Item #2 is a motion to approve the Findings,
3 Determination and Decision document approving an
4 area variance, with restrictions, for Mark LaMaina,
5 119 Main Street, Greenport, New York; Suffolk
6 County Tax Map 1001-5-4-34, for a restaurant sign
7 which is directly illuminated.

8 We received only today from Mr. Prokop the
9 Determination Document, and I have gone through it.
10 I thank you for sending the notice about the
11 correction, but I had already made corrections.
12 And what I propose to do is simply identify the
13 corrections that I have made on a clean copy, which
14 I'd like to present for approval today. And in
15 case you had noticed some inconsistencies in the
16 current document, I'll just identify those as we go
17 through.

18 MS. NEFF: So may I ask a question?

19 CHAIRMAN MOORE: Yes.

20 MS. NEFF: The one I have in front of me has
21 been slightly revised?

22 CHAIRMAN MOORE: Yes.

23 MS. NEFF: Okay.

24 CHAIRMAN MOORE: I'm not sure which version
25 you have, but it has been further corrected.

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1 In the third paragraph, on the first page,
2 Zoning Board of Appeals, the "April 16, 2014" can
3 be removed, because we did close the public
4 appearing on February 19th. And then it properly
5 identifies that the meeting continued and we
6 discussed it on April 16.

7 On Page 2, the subject premises is located --
8 improved by a restaurant, and the sign in question
9 is a newly installed existing sign; that this
10 clarifies that, or existing --

11 MS. NEFF: What paragraph are you talking
12 about?

13 CHAIRMAN MOORE: The very first sentence on
14 Page 2.

15 MS. NEFF: Okay.

16 CHAIRMAN MOORE: On the --

17 MS. NEFF: Would you read the change? I
18 don't know --

19 CHAIRMAN MOORE: I just added "a newly
20 installed existing sign."

21 MS. NEFF: Okay. Thank you.

22 CHAIRMAN MOORE: There was some concern that
23 it may appear that this sign has been there for
24 quite a period of time and it's not --

25 MR. CORWIN: So let's get rid of "existing

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1 sign" and say --

2 CHAIRMAN MOORE: "Newly installed."

3 MR. CORWIN: -- "illegally installed sign."

4 CHAIRMAN MOORE: If you wish to use that
5 instead of "newly installed." How does the Board
6 feel about that?

7 MR. BENJAMIN: I agree.

8 CHAIRMAN MOORE: So you're saying "illegally
9 installed"?

10 MR. CORWIN: Installed without a permit.

11 CHAIRMAN MOORE: Or how about "is a newly
12 installed sign with no permit"?

13 MR. BENJAMIN: Good.

14 MR. CORWIN: That says it.

15 MS. NEFF: Okay.

16 CHAIRMAN MOORE: Okay, which is what had
17 happened.

18 In the third paragraph, "that for the Zoning
19 Board of Appeals," I -- on the third line there, I
20 replaced "okay" with "acceptable."

21 MS. NEFF: Okay.

22 CHAIRMAN MOORE: If not right. It is the
23 Historic Preservation Commission, not the Housing
24 Preservation Committee.

25 MR. PROKOP: Thank you. I'm Sorry. I

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1 apologize --

2 CHAIRMAN MOORE: Yes, that's right.

3 MR. PROKOP: -- to the Chair.

4 CHAIRMAN MOORE: And it said same initials,
5 though, HPC. And --

6 MS. NEFF: It's a commission, not committee,
7 right?

8 CHAIRMAN MOORE: Commission, I believe; is
9 that correct?

10 MR. UELLEND AHL: Correct.

11 CHAIRMAN MOORE: Commission, yes. That
12 sounds very authoritative. At the bottom of
13 this --

14 MR. UELLENDahl: Just responding.

15 CHAIRMAN MOORE: -- same page, Rathbun is
16 replaced -- should be replaced with the name
17 Corwin. Denise Rathbun is no longer a member of
18 the Zoning Board of Appeals.

19 On Page 3, in the voting, under B, "The
20 benefit sought by the applicant could not be
21 achieved by some method," the document has been
22 corrected to say, "The Zoning" -- and I have to get
23 to that page to read it directly. "The Zoning
24 Board of Appeals was undecided, the benefit sought
25 by the applicant," because the voting in that case

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1 was even.

2 At the bottom of Page 3 again, "okay" has
3 been acceptable -- has been replaced by
4 "acceptable."

5 And then, at the end, the motion on Page 4 by
6 Chairman Moore, and it has been fixed to say, "The
7 variance of the lighted sign subject to the stated
8 conditions of the approval." This, apparently,
9 came from a previous document, so it was

10 incorrectly stated as maximum height limitation.

11 That might have been Rhumblin --

12 MR. BENJAMIN: Or a flashing sign.

13 CHAIRMAN MOORE: -- from the past. And then,
14 again, in favor on that page is David Corwin as our
15 member, and deleting Ellen Rathbun.

16 So with that, I believe the document is
17 correct and properly represents the conditions.

18 I should point out that we had stipulated
19 that the sign is to remain in its current location.
20 The sign must be softly self-illuminated. The
21 border lights, which are number 40, are acceptable
22 if not bright. The sign cannot be flashing, and no
23 flashing lights are permitted. And the Zoning
24 Board of Appeals and the HPC will review the sign
25 when lighted after dark once the lights are

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1 adjusted. And the variance is for the existing
2 sign only, and does not carry over to a new or
3 different business or owner.

4 So, with those corrections and those
5 stipulations within the Approval Document, I will

6 make a motion that we approve this document as
7 corrected, and I would ask for a second.

8 MR. BENJAMIN: Second.

9 CHAIRMAN MOORE: Any discussion on the
10 matter?

11 MR. CORWIN: Quite simply, the sign is on and
12 flashing. I think the Zoning Board of Appeals did
13 Mr. LaMaina a favor, and I think it's highly
14 insulting to the Zoning Board of Appeals, and the
15 Village of Greenport, and the Building Department
16 for the gentleman to go ahead and turn the flashing
17 sign on after we did him a favor. So why should we
18 approve it?

19 CHAIRMAN MOORE: Okay.

20 MR. CORWIN: I say don't approve it.

21 MR. PROKOP: If he's already in violation, he
22 should be issuing -- he should be getting summonses
23 at this point. And my recommendation would be that
24 you don't vote to --

25 CHAIRMAN MOORE: Okay.

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1 MR. PROKOP: You don't take any further

2 action.

3 CHAIRMAN MOORE: If I can add any comment
4 here, the Building Inspector did have several
5 telephone calls. I don't know if she relayed them
6 to you, Mr. Prokop, but --

7 MR. PROKOP: No.

8 CHAIRMAN MOORE: -- she spoke with him on --
9 two times today. And, apparently, he was closing
10 on a purchase of a house today and she didn't want
11 to continue the conversation. He indicated his
12 urgency to maintain his sign over the weekend. She
13 came back to him because of the holiday weekend.
14 He has been enjoying, I think, this interim period
15 where he's not in compliance, but he's still
16 waiting for an official document describing what is
17 required of him.

18 So, I agree, that he's taken advantage of the
19 Board. The Building Inspector is going to speak
20 with him again tomorrow and ask him not to have the
21 sign flashing. And I would feel that pending the
22 adjustment of the lighting, if he does not have it
23 flashing, but illuminated, that we could live with
24 that. He says he's going to have the sign taken
25 down Tuesday and --

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1 MS. NEFF: Tuesday, as in next --

2 CHAIRMAN MOORE: Next Tuesday for the
3 electrician to make the necessary repairs and
4 adjustments. So that's where we are with that. I
5 understand the discomfort of the Board.

6 AUDIENCE MEMBER: May I?

7 CHAIRMAN MOORE: I'm sorry, we're not taking
8 any public comment.

9 The situation we're in right now, it's a code
10 enforcement issue. It's out of compliance whether
11 it's flashing or not, because it doesn't meet the
12 Village -- you know, the Village code. Our
13 variance that we are allowing on this sign makes it
14 acceptable to the HPC and the Zoning Board, and
15 that will come as promised by the owner when the
16 sign is adjusted. So I don't know that --

17 MS. NEFF: Can I ask you a question?

18 CHAIRMAN MOORE: Yes.

19 MS. NEFF: Are you saying that the owner is
20 unaware of the language that's used in this
21 Findings and Determination?

22 CHAIRMAN MOORE: I don't know what --

23 MS. NEFF: Because I can't believe that
24 that's true.

25 CHAIRMAN MOORE: -- he's aware of. I think

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1 he knows what's expected of him. And I would have
2 expected he could have spent some valuable time
3 having the sign adjusted in this interim period,
4 which he's not done.

5 MS. NEFF: Right. And what leads me --

6 CHAIRMAN MOORE: But that he --

7 MS. NEFF: Could I just continue?

8 CHAIRMAN MOORE: Yes.

9 MS. NEFF: It just leads me to think that
10 that is probably, most likely, is to say, well, but
11 what about the weekend? There's always another
12 weekend. And I think that withdrawing his motion
13 makes the most sense. And that we could, if we are
14 in agreement, make the recommendation that a
15 summons be issued in a timely fashion.

16 CHAIRMAN MOORE: We can do that.

17 MS. NEFF: About --

18 CHAIRMAN MOORE: We can do that.

19 MS. NEFF: Yeah.

20 CHAIRMAN MOORE: I think one of the
21 difficulties is that the longer we delay a
22 definitive directive as to what needs to be done,
23 that makes it official, because we have already
24 decided this is the solution to the request for the
25 lighted sign. We can't act as a code enforcement

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1 agency by withholding an approval, we've already
2 made the approval.

3 MS. NEFF: Can I ask a question?

4 CHAIRMAN MOORE: We would have to bring it up
5 for a whole new process if we wanted to reconsider.

6 MS. NEFF: Could I ask a question? Can we
7 direct that the Building Inspector share the
8 language of the determination, so there could not
9 be some confusion about what exactly, quote,
10 unquote, we want?

11 CHAIRMAN MOORE: Yes.

12 MS. NEFF: I think it was pretty clear
13 from --

14 CHAIRMAN MOORE: Yes I think it was clear --

15 MS. NEFF: Yes.

16 CHAIRMAN MOORE: -- from the public record,
17 yes.

18 MR. PROKOP: One of the things -- I mean, I'm
19 sorry for the delay in this, but one of the things
20 that I needed to do in this is go through several
21 different documents and sort of pull them together.
22 And I also had to figure out that Lucharito's was
23 the same thing as LaMaina.

24 CHAIRMAN MOORE: Yes.

25 MR. PROKOP: But the -- I mean, it was clear

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1 from -- I wasn't present at the April meeting, but
2 it was clear from the record what the conditions
3 were.

4 CHAIRMAN MOORE: Yeah. He was not present at
5 the meeting.

6 MR. PROKOP: I mean, in this Village, we run
7 into this all the time. This is just somebody
8 that's trying to buy more time. You people are
9 volunteers. I'm getting paid to be here. You
10 people are volunteers, and what he's doing is

11 directly insulting --

12 MS. NEFF: Yes.

13 MR. PROKOP: -- the whole process.

14 CHAIRMAN MOORE: Well, do you --

15 MR. PROKOP: I would go and pull the plug on
16 the sign.

17 CHAIRMAN MOORE: Right.

18 MR. PROKOP: I wouldn't even have it on
19 tonight.

20 CHAIRMAN MOORE: Right. If we don't approve
21 the document, which I think properly now represents
22 our deliberations and the variance that we issued
23 or approved, are we benefitting the process by
24 delaying that? Because it gives an opportunity for
25 the individual to say, "Well, hey, I have nothing

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1 official from you." The Building Inspector can
2 issue a violation with the current conditions in
3 the absence of a variance, because the sign is in
4 violation. So she could do that tomorrow morning.

5 MR. PROKOP: You know what I would do, is I
6 would -- what I would do is I would -- you voted to

7 approve the variance, so, technically, the variance
8 is approved. You're just at this point cleaning up
9 paperwork that has to be taken care of. But what I
10 would do is I would vote as a Board that if this
11 isn't corrected by Friday, at 5 p.m. on Friday,
12 that the variance is rescinded.

13 CHAIRMAN MOORE: Okay. So we could --

14 MR. PROKOP: Because it's a direct -- I'm
15 sorry, I didn't mean to interrupt you, but --

16 CHAIRMAN MOORE: No, that's all right.

17 MR. PROKOP: It's true, that we are not the
18 code enforcement function in this Village, and we
19 should not get involved in that, that's accurate.

20 CHAIRMAN MOORE: The ZBA.

21 MR. PROKOP: The ZBA, but on the other --

22 CHAIRMAN MOORE: Yes.

23 MR. PROKOP: Excuse me. But, on the other
24 hand, the Board does issue variances that are
25 conditioned on certain things happening. And when

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1 somebody sits now, you know, for 29 days and does
2 exactly what you said cannot happen, I would just

3 give him a very short leash, which I would
4 recommend is Friday at 5 p.m., and then the
5 variance is rescinded.

6 CHAIRMAN MOORE: And what would the direction
7 be, that the sign not to be flashing?

8 MR. PROKOP: Yes. That all the conditions
9 be -- all the conditions of the sign be met.

10 CHAIRMAN MOORE: All the conditions be met.

11 MR. PROKOP: By Friday.

12 CHAIRMAN MOORE: Would that be acceptable
13 or --

14 MR. CORWIN: Yes.

15 MS. NEFF: Yes.

16 CHAIRMAN MOORE: So we would add an
17 additional condition on approval of the document,
18 since the variance is already issued, that by
19 5 p.m. Friday, May 22nd, that the conditions of the
20 variance be met or the sign will be off.

21 MR. PROKOP: No.

22 MS. NEFF: Or -- no.

23 MR. PROKOP: The variance is rescinded.

24 MS. NEFF: The variance is rescinded.

25 MR. PROKOP: I would do it in a separate

1 vote.

2 CHAIRMAN MOORE: The variance is rescinded?

3 MR. PROKOP: Yeah. I would vote --

4 CHAIRMAN MOORE: I don't think we can ask him
5 to make the necessary electrical connections to the
6 box by tomorrow night, because I don't see as that
7 being even feasible.

8 MR. PROKOP: This Friday --

9 CHAIRMAN MOORE: Is tomorrow night. Because
10 he's having the sign taken down and worked on by
11 whoever's going to make those adjustments.

12 MS. NEFF: So he said.

13 CHAIRMAN MOORE: So he says, yes.

14 MS. NEFF: Whether there are wires that are
15 moved and pulled, it's done in five minutes, we
16 don't know --

17 CHAIRMAN MOORE: We don't know.

18 MS. NEFF: -- exactly what it takes.

19 CHAIRMAN MOORE: I don't know, but I don't
20 know that -- I think we can simply say that the
21 variance document will not be approved without the
22 condition that he comply with the requirements of
23 the variance by tomorrow, however he does it. If

24 it requires turning the sign off in that regard,
25 then so be it. But I don't think we can direct him

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1 that he make specific changes to the sign by then.
2 I don't think that would be considered in any kind
3 of appeal as reasonable.

4 MR. CORWIN: He can turn the sign off. He
5 turned it off for two months --

6 CHAIRMAN MOORE: He can turn it off, yeah.

7 MR. CORWIN: -- prior to the hearing. And as
8 soon as we voted to approve it, he apparently
9 turned the light on. And if you want to believe
10 what's in the Suffolk Times, he knew what the deal
11 was, because he said he didn't like it.

12 CHAIRMAN MOORE: Yeah, he wasn't happy with
13 the conditions. Yeah, I think that we simply have
14 to say that the sign has to operate according to
15 the variance granted, or be turned off. Whether he
16 fixes the sign or not really is up to him, because
17 if he doesn't fix it, he can't turn it back on
18 then. Is that acceptable to the Board?

19 MR. BENJAMIN: I don't recall the conditions

20 that were made when we approved the variance.

21 CHAIRMAN MOORE: Well, they are in --

22 MS. NEFF: They're stated right here.

23 CHAIRMAN MOORE: They are stated, and those
24 are accurate. They came not only from the Historic
25 Preservation Commission, that the sign has to be

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1 where it is currently, the sign must be softly
2 illuminated, that is the sign body itself, and the
3 border lights have to be acceptable to the two
4 Boards on demonstration, and the sign cannot be
5 flashing and no flashing lights are permitted, and
6 that we're going to inspect the sign. And the
7 variance only carries with the current owner and
8 business. So those are pretty right to the point.

9 MR. BENJAMIN: So we have -- we have the
10 right to rescind it. We just have to finish this.
11 But as soon as we sign this and go there and see
12 that he has not corrected or complied, then we
13 could, in effect, rescind it, but we wouldn't meet
14 until another month.

15 CHAIRMAN MOORE: I think we would have -- the

16 only grounds I think that we could rescind the
17 variance would be a continuous violation of the
18 approved variance.

19 MR. PROKOP: Well, he's not complying with
20 the conditions as --

21 CHAIRMAN MOORE: As stated.

22 MR. PROKOP: You know, the clear conditions
23 of the hearings.

24 CHAIRMAN MOORE: Right.

25 MR. CORWIN: He's violating the Village Code

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1 right now, this very minute. It says no
2 self-illuminated signs.

3 CHAIRMAN MOORE: Right.

4 MR. CORWIN: And he has nothing in his hand
5 that says he can do it.

6 MR. BENJAMIN: But we really haven't finished

--

7 CHAIRMAN MOORE: The process, right.

8 MR. BENJAMIN: Yeah. So we should finish.

9 CHAIRMAN MOORE: So I think the additional
10 motivation we need to put into this document is

11 that it will be, as you indicated, rescinded if the
12 corrections are not made. And is there a period of
13 time?

14 MR. PROKOP: I would recommend, since you
15 already -- the problem is the document is supposed
16 to reflect the vote that you took on April -- in
17 April.

18 CHAIRMAN MOORE: Yes.

19 MR. PROKOP: So which we should do. We
20 should adopt the document in accordance with the
21 vote in April. But then what I would do is I would
22 have a second vote that the -- that due to the
23 noncompliance with the conditions of the variance,
24 that the variance is rescinded if it's not -- if
25 the conditions are not fully complied with by, and

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1 then give a date, give a date certain.

2 CHAIRMAN MOORE: Is that acceptable to the
3 Board?

4 MR. CORWIN: Yes.

5 CHAIRMAN MOORE: Okay.

6 MR. CORWIN: Friday suits me fine.

7 CHAIRMAN MOORE: Now the date of compliance,
8 though, to operate the sign --

9 MR. CORWIN: All he has to do is turn the
10 lights off.

11 CHAIRMAN MOORE: Turn the lights off, okay.

12 MR. CORWIN: Period.

13 CHAIRMAN MOORE: And then what would the
14 Board offer for a time period that the sign, if
15 illuminated, be -- well, maybe it just -- it does
16 not come back unless it's compliant.

17 MS. NEFF: Right.

18 CHAIRMAN MOORE: Simple enough, right?

19 MS. NEFF: Yes.

20 CHAIRMAN MOORE: Okay. So what I'll do is
21 offer a motion that we approve the Determination
22 and Decision Document as corrected for the sign
23 variance, and that we will have a second vote that
24 will clean up the other issues. So I'll make the
25 motion to approve the document as corrected. May I

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1 have a second, please?

2 MR. BENJAMIN: Second.

3 CHAIRMAN MOORE: And all in favor?

4 MS. NEFF: Aye.

5 MR. BENJAMIN: Aye.

6 CHAIRMAN MOORE: Aye.

7 Opposed?

8 MR. CORWIN: No.

9 CHAIRMAN MOORE: So we have three in favor
10 and one opposed. So the document is approved.

11 And now what we'll do is -- how can we word
12 this? That we will --

13 MS. NEFF: Failure to -- one suggestion is
14 failure to comply with the conditions set forth in
15 the variance will result in --

16 MR. CORWIN: And the Village Code.

17 MS. NEFF: -- rescinding the variance by --
18 by the date, result in rescinding the variance, and
19 that, therefore, the sign would be off.

20 CHAIRMAN MOORE: How about I do it this way,
21 that the sign may not operate outside of compliance
22 with Village Code or the variance issued, or must
23 remain off until compliant? Otherwise, by the next
24 meeting of the Board, we will move to rescind the
25 variance.

1 MR. CORWIN: Yes.

2 CHAIRMAN MOORE: Is that acceptable?

3 MR. CORWIN: Yes.

4 CHAIRMAN MOORE: So, with that said, so
5 moved. And may I --

6 MR. CORWIN: Well, why don't you just say
7 that once more, just so we're all clear.

8 CHAIRMAN MOORE: I don't know if I can say it
9 again.

10 MS. NEFF: I know you can.

11 CHAIRMAN MOORE: Let's see. That we will
12 specify that the sign, which has an approved
13 variance, must operate either within Village Code
14 or within the parameters set within the variance,
15 which was approved. And if the sign is operated
16 outside of those terms and continues to do so by
17 the next meeting of the Zoning Board of Appeals --

18 MR. CORWIN: No, no

19 CHAIRMAN MOORE: No?

20 MR. CORWIN: By Friday, or if you want to
21 give him the middle of next week, but it's got to
22 be done within one week.

23 CHAIRMAN MOORE: Okay. So that it has --

24 well, it has to be compliant with code or with our
25 variance as of tomorrow morning.

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1 MR. PROKOP: But you don't have the -- you
2 don't have the ability to direct him to comply with
3 the code. If people in the Village don't comply
4 with the code, that's the business of --

5 CHAIRMAN MOORE: Yes.

6 MS. NEFF: Right. So just say --

7 MR. PROKOP: -- Eileen.

8 MS. NEFF: -- that the -- yeah, talk about
9 the variance.

10 MR. PROKOP: You have to deal with rescinding
11 the variance.

12 CHAIRMAN MOORE: Okay. So that we will
13 indicate, then -- now, what time period would there
14 be for -- well, there doesn't need to be a time
15 period, because it has to operate within the
16 conditions of the code. And for what period of
17 time of noncompliance would the Board entertain
18 rescinding? Does it, you know --

19 MS. NEFF: I think that the owner is well

20 aware of the conditions set forth in the variance
21 already, and that any time frame other than a week
22 is not reacting in an appropriate manner to him
23 pushing the envelope in the way that he has.

24 CHAIRMAN MOORE: So are you suggesting that
25 he has a week to become compliant?

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1 MS. NEFF: Yes, absolutely, or it's
2 rescinded.

3 CHAIRMAN MOORE: Or it's rescinded.

4 MS. NEFF: Yes.

5 CHAIRMAN MOORE: All right. So I would make
6 the motion, then, that we require that the owner
7 comply with the conditions of the variance by the
8 end of next week, which would be June 3rd or 4th?
9 I'm trying to think what date. Pardon me while I
10 look up --

11 MR. ABATELLI: It might be the 31st.

12 MS. NEFF: Sooner than that.

13 CHAIRMAN MOORE: It's sooner than that.

14 MS. NEFF: It's the -- that would be the
15 31st.

16 MR. ABATELLI: It should be the following
17 Friday, I would say.

18 CHAIRMAN MOORE: The following Friday, yeah.
19 Let me find that.

20 MR. BENJAMIN: Actually, it should be
21 compliant right now.

22 CHAIRMAN MOORE: It should be. But he may
23 not operate it out of compliance after a period of
24 time. What you're doing, though, by stating it
25 that way, we're granting him an allowance to

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1 operate out of compliance.

2 MR. ABATELLI: No, no.

3 MS. NEFF: No.

4 CHAIRMAN MOORE: But we don't want to do
5 that.

6 MS. NEFF: No.

7 CHAIRMAN MOORE: How do we word this?

8 MR. ABATELLI: If I understand -- I mean,
9 from -- being that I'm going to now be the one
10 trying to -- you know, if we have to tell him what
11 to do.

12 MS. NEFF: Yes.

13 MR. ABATELLI: My understanding from the last
14 thing you're saying is by Friday at 5 o'clock, he
15 either has to have just the lights on, not
16 flashing, and ideally not very bright.

17 CHAIRMAN MOORE: Yeah.

18 MR. ABATELLI: But not flashing, or he has to
19 turn the sign off.

20 MS. NEFF: Yeah.

21 CHAIRMAN MOORE: By tomorrow.

22 MR. ABATELLI: That's by Friday. Tomorrow is
23 Thursday.

24 CHAIRMAN MOORE: Tomorrow.

25 MS. NEFF: By Friday. He's got a day to

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1 think about it.

2 MR. ABATELLI: You said Friday, right?

3 MS. NEFF: Yeah, I agree with that.

4 MR. ABATELLI: Is that what you said?

5 Whatever, whatever day it is, but I wrote -- I
6 think you said Friday. And if he fails to do that,
7 the Board will -- you know, I don't even have to be

8 specific about the dates with him, but the Zoning
9 Board will rescind the variance to have a lighted
10 sign at all. If -- I don't think it's -- you know,
11 again, this is complicated, but I don't think it's
12 necessary to say you have to -- you have a week to
13 get the sign to work the way we said. I think it's
14 just he -- you know, if he's able to make it just
15 not blink, which, you know, may be possible, you
16 know, it may not be true that he needs to go
17 through a whole big, you know, electrical engineer
18 thing to get the lights to not flash.

19 MS. NEFF: Right.

20 MR. ABATELLI: Then he's done. If he does --
21 and his only other option is that he turn the
22 lights off. I'm sure he has the technology to turn
23 the lights off.

24 CHAIRMAN MOORE: And you're describing -- I
25 believe he was able to operate the sign without

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1 flashing

2 MR. ABATELLI: I think he can, but I'm not
3 going to say that he -- I don't know for sure, but

4 I'm pretty sure he can.

5 CHAIRMAN MOORE: So we're saying that he will
6 need to operate according to the variance, or by
7 5 p.m. Friday, the 22nd.

8 MS. NEFF: Friday, the 23rd.

9 CHAIRMAN MOORE: The 23rd. Sorry, this is
10 Wednesday. Friday, the 23rd, would operate the
11 sign to be not flashing, and that if, after a
12 week's period, he's not in compliance, that we will
13 move to rescind the variance; is that the right
14 wording?

15 MR. ABATELLI: Well, I guess so. I guess if
16 being not in compliance means -- let's say if it is
17 true, that he has to have the sign sent to, you
18 know, like GE, or something like that, to get it to
19 work properly --

20 CHAIRMAN MOORE: Well, then it won't be
21 there.

22 MR. ABATELLI: -- then he maybe needs more
23 time. But he could still leave the sign and the
24 sign would be down, because, if that is true, he's
25 got to take the sign away.

1 CHAIRMAN MOORE: I mean, if it goes away,
2 it's not in violation.

3 MR. PROKOP: Could I make a suggestion?

4 MS. NEFF: Yes.

5 CHAIRMAN MOORE: How -- somebody help me on
6 this. I'm getting totally confused.

7 MR. PROKOP: Could I make a suggestion, that
8 the motion is that the applicant is directed to --
9 excuse me. The applicant is directed to comply
10 with the conditions of the variance, as stated, by
11 5 p.m. on Friday, May 23rd, or turn the sign off.
12 Failure -- I'm sorry.

13 MS. NEFF: I was just going to say, until
14 such time it is in compliance.

15 MR. PROKOP: Until such time as it is in
16 compliance. Failure to comply with this condition
17 will result in the rescision of the variance at the
18 June meeting of the Zoning Board of Appeals.

19 CHAIRMAN MOORE: So it will result
20 in rescision --

21 MR. PROKOP: Rescision of the variance at the
22 June meeting of the Zoning Board of Appeals. This
23 matter is to be placed on the agenda for the June
24 meeting of the Board of Appeals.

25 MS. NEFF: Which happens to be June 18th.

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1 MR. PROKOP: For consideration.

2 CHAIRMAN MOORE: For consideration. So, with
3 that said, I would move that we approve that
4 additional condition on the variance, and ask for a
5 second.

6 MR. CORWIN: Second.

7 CHAIRMAN MOORE: And all in favor?

8 MR. CORWIN: Aye.

9 MS. NEFF: Aye.

10 MR. BENJAMIN: Aye.

11 CHAIRMAN MOORE: Aye.

12 So that motion carries. And with that in
13 mind, if the sign is illuminated and not flashing
14 this weekend, I suppose we would leave it to up the
15 Building Inspector to determine if it meets the
16 conditions of the variance. I mean, obviously,
17 that would be some -- we're going to be inspecting
18 the sign after dark once it is fully adjusted, and
19 I expect that we'll have a good result. So I think
20 this will give the Building Inspector some

21 additional backup to get the sign compliant with
22 our variance issue. So that is done, I believe.

23 We can move on to Item #3, which is a motion
24 to accept a request from the Building Inspector for
25 an interpretation of Sections 150-12A and 150-13D,

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1 publicly notice and schedule a public hearing for a
2 request. And that can be deleted. Just public
3 hearing, period. That was my mistake in writing
4 this up.

5 An interpretation is requested regarding the
6 exclusion or inclusion of Bilco doors, basement
7 stairwells, chimneys and similar components for
8 consideration in the yard setback requirements
9 stated in section Section 150-12A. So moved. May
10 I have a second, please? We're all aware of what
11 this is about.

12 MR. CORWIN: Second.

13 CHAIRMAN MOORE: And all in favor?

14 MR. CORWIN: Aye.

15 MS. NEFF: Aye.

16 MR. BENJAMIN: Aye.

17 CHAIRMAN MOORE: Aye.
18 So that motion carries.
19 Motion to accept ZBA minutes for April 16,
20 2014. So moved. Second, please.
21 MS. NEFF: Second.
22 CHAIRMAN MOORE: All in favor?
23 MR. CORWIN: Aye.
24 MS. NEFF: Aye.
25 CHAIRMAN MOORE: Aye.

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1 MR. BENJAMIN: Aye.
2 CHAIRMAN MOORE: Motion to approve -- and
3 that motion carries. Motion to approve the ZBA
4 minutes for February 19th, 2014. So moved. May I
5 have a second?
6 MR. BENJAMIN: Second.
7 CHAIRMAN MOORE: No discussion on that?
8 (No response.)
9 CHAIRMAN MOORE: If not, all in favor?
10 MR. CORWIN: Aye.
11 MS. NEFF: Aye.
12 MR. BENJAMIN: Aye.

13 CHAIRMAN MOORE: Aye.
14 The motion carries.
15 And motion to schedule the next regular ZBA
16 meeting for June 18, 2014. So moved. Second,
17 please.
18 MR. CORWIN: Second.
19 CHAIRMAN MOORE: All in favor?
20 MR. CORWIN: Aye.
21 MS. NEFF: Aye.
22 MR. BENJAMIN: Aye.
23 CHAIRMAN MOORE: Aye.
24 I make a motion to adjourn. Second, please.
25 MR. CORWIN: Second.

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1 CHAIRMAN MOORE: Second from David Corwin.
2 All in favor?
3 MR. CORWIN: Aye.
4 MS. NEFF: Aye.
5 MR. BENJAMIN: Aye.
6 CHAIRMAN MOORE: Aye.
7 (Whereupon the meeting was adjourned at 5:58
8

p.m.)

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C E R T I F I C A T I O N

STATE OF NEW YORK)

) SS:

5 COUNTY OF SUFFOLK)

6

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

10 THAT, the above and foregoing contains a true
11 and correct transcription of the proceedings taken
12 on May 21, 2014.

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

17 IN WITNESS WHEREOF, I have hereunto
18 set my hand this 4th day of June, 2014.

19

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Lucia Braaten

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